

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672

2353 SCOMM 99 HOUSE SPEC. WORLD TRADE. RELATIONS, 1995-1996

Potential "Project Partnering"



Whatever the New Tax/Royalty Regime Decided for Alaska

— There May Still be Projects on the Non Competitive Margin

For Those Projects Where the State's New Changes Aren't Enough

— ARCO Will Propose a "Project Partnering" Approach

ARCO Would Come Forward With Information Shared Openly

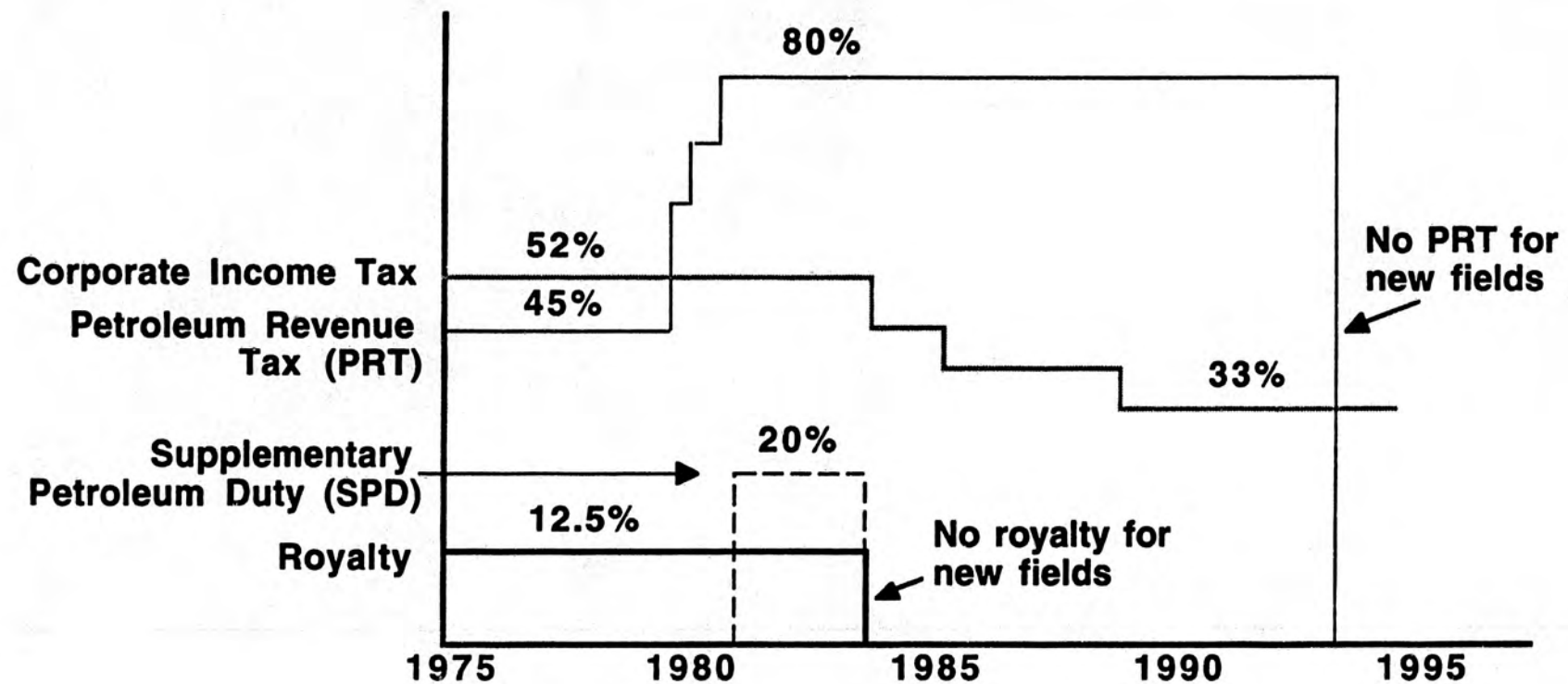
— The State Would Decide

Potential Categories of Projects For This "Project Partnering" Process

- **New Marginal Exploration** (eg, Lease Sale 79)
- **Marginal Development, New Field** (eg, West Colville)
- **Marginal Development, Existing Field** (eg, West Sak)
- **Fields Near Abandonment** (eg, Cook Inlet or Kenai)

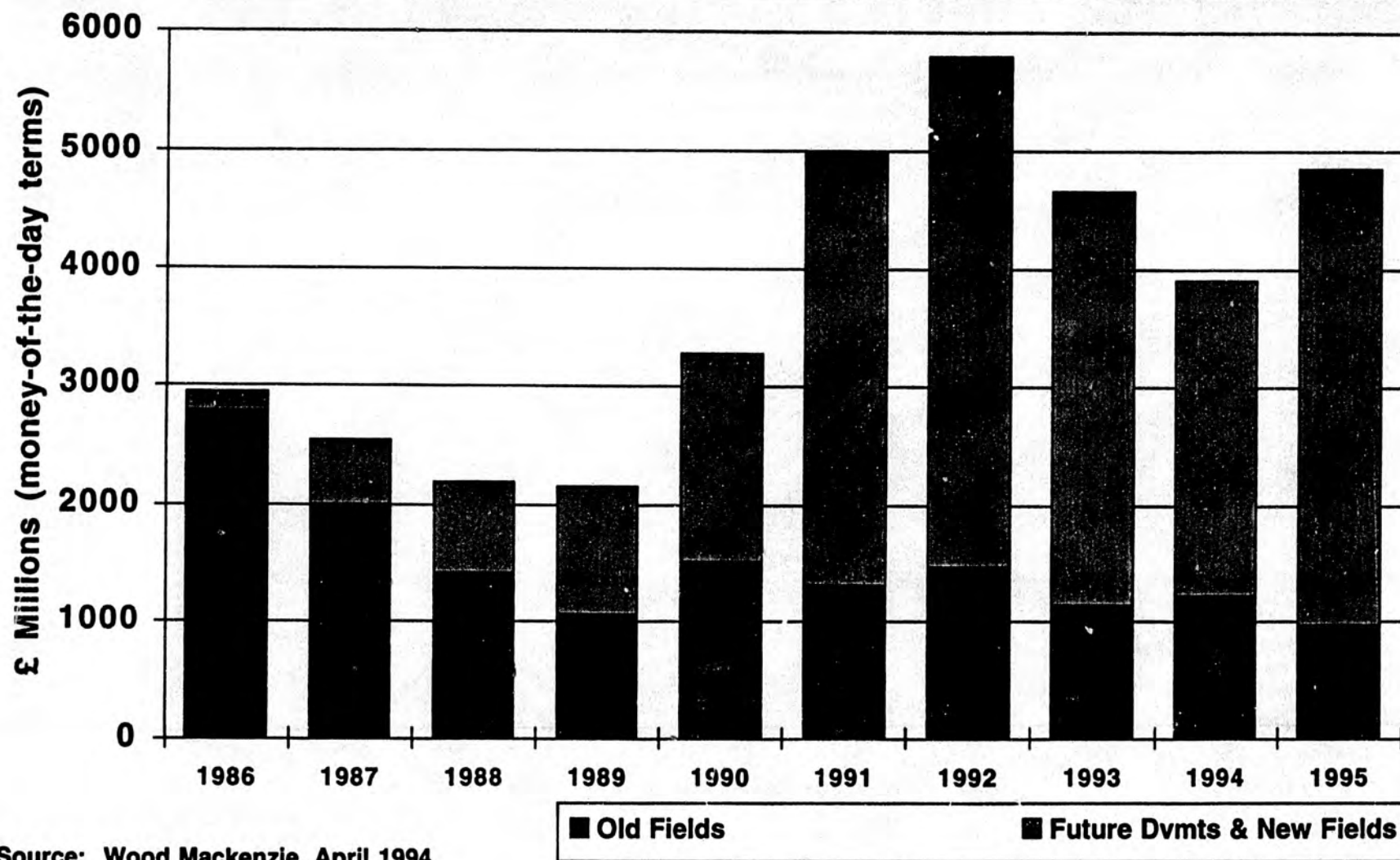
U.K. Taxation History Overview (New Fields)

**Low Cost
& Long Term**



Capital Expenditures U.K. North Sea

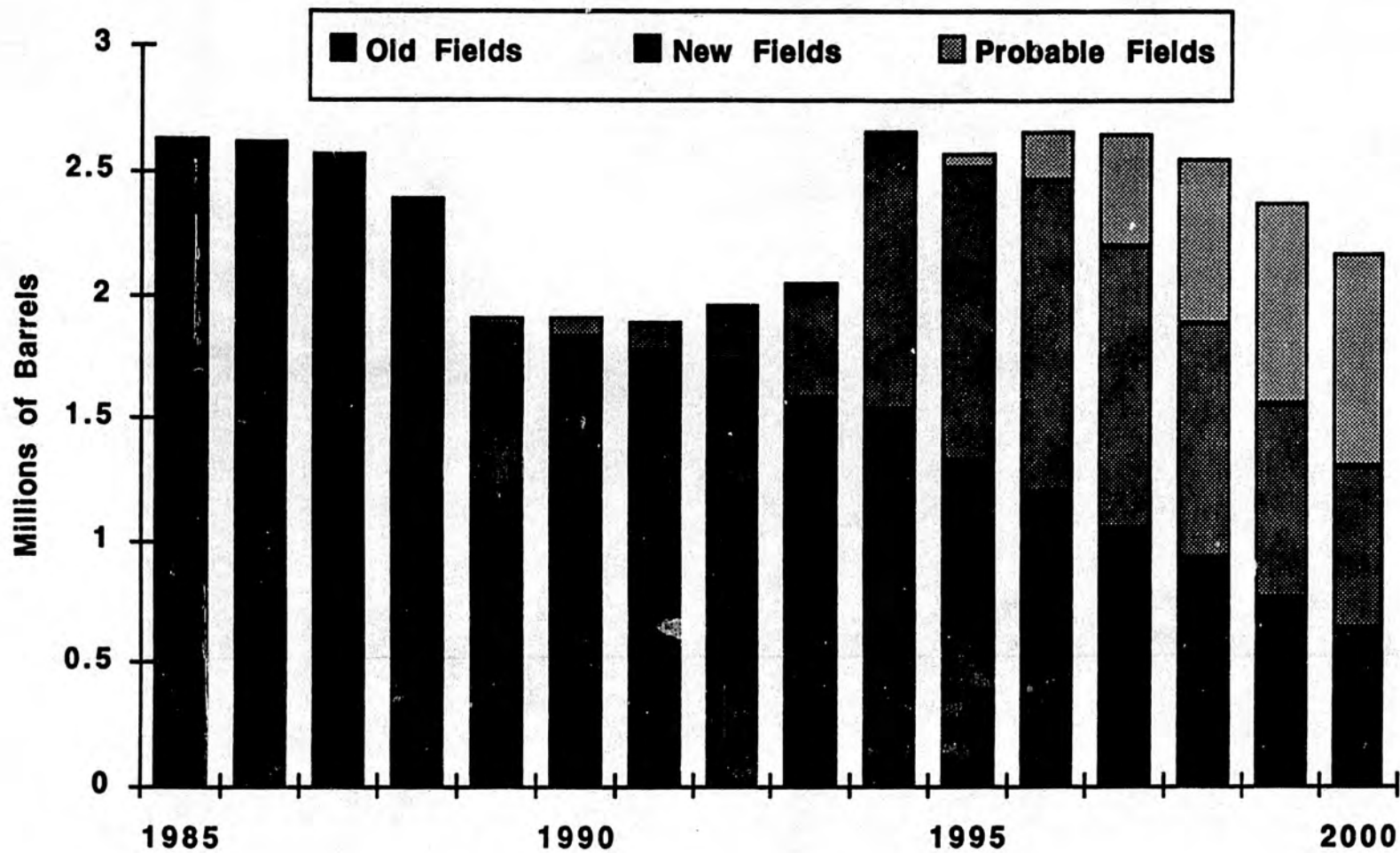
safe Low Cost
& Long Term



Source: Wood Mackenzie, April 1994

UK North Sea Production Profile

**Low Cost
& Long Term**



**Testimony
of
J. Ken Thompson
President, ARCO Alaska, Inc.
to
the
House Resources Committee
February 15, 1995**

Slide 1: Agenda

- Hello. For the record, I'm Ken Thompson, President of ARCO Alaska, Inc.
- Pleasure to be here. Thanks for opportunity to testify.
- Here today to talk about common goals shared by ARCO Alaska and the state.... and what its going to take to achieve our goals.
- I'll be sharing information about what other oil provinces are doing to boost production and create jobs for local residents. And I'll talk about some steps we can take today and in the future..... to ensure that oil and gas investment opportunities in Alaska remain competitive. When I'm done, I hope you'll be persuaded that the state can make a difference..... that the state can change the economic equation for marginal oil accumulations on the North Slope.

Slide 2: Common goals

- State and ARCO share common goals.
- The first is to mitigate the production decline now occurring in existing fields through the discovery and development of new oil accumulations and the development of marginal horizons in existing fields.

- Second..... we need the incremental revenue that will be derived from new production.

- Let me underscore the words "New Production." ARCO is not seeking changes in the tax or royalty treatment of existing production. Instead, we're asking that the state be willing and able to consider changes in the regulatory, tax and royalty treatment of marginal projects which can't go forward without such consideration. In short..... we must work together to turn zeroes into positive numbers.... which show up on our balance sheet and in your treasury. Or as was said on a recent Juneau news report..... half a loaf is better than none.

- If we can turn zeroes into positive numbers..... then you'll have the opportunity to increase Permanent Fund contributions over what they would otherwise be.... while maintaining current contribution rates.

- Finally.... we want to create jobs and economic opportunity for Alaskans. Those who work in our industry and those who don't.

- The only way to reach these common goals is through sustained oil and gas development. That means:

- Continued exploration of Alaska
- Development of marginal oil accumulations
- And by extending the economic lives of existing fields.

- To have sustained oil and gas development we must be competitive.

- Companies like ARCO must reduce costs through improved operating practices and development of new, more cost effective technologies.

- And the state must be willing and able to consider changes in the tax, royalty and regulatory treatment of proposed oil and gas

projects when change is necessary to turn a zero.... into new production..... new revenues..... and new jobs.

- We both have parts to play.
- There's a lot at stake.
- 85 percent of current state revenue dependent on oil production. According to state projections.... North Slope oil production will decrease more than 30 percent over next five years.

Slide 3: World fiscal regimes more competitive

- Other countries are turning zeroes into jobs, production..... and incremental revenue.
- Norway abolished royalties on new fields in 1986 and removed sliding scale state participation in new leases in 1992.
- Australia introduced a Resource Rent Tax in 1985 for offshore projects.
- Venezuela cut the income tax rate for heavy crude development from 67 to 34 percent. Removed onerous tax provisions for multinational firms and improved bidding structure for operating contracts for marginal fields.
- In Alberta, Canada fiscal reformations led to oil & gas industry turnaround after the 1986 crash.
- Why all this change? Simple. Oil Prices are down and have been down for some time. Investment capital is in short supply and there is an abundance of oil and gas investment opportunities available.
- Mr. Chairman... members of the committee I'm an here today as one of Alaska's oldest and best customers. We've been doing business here more than 40 years. It's been a tremendous relationship. I like shopping in your store. I like the merchandise

you carry. I want to keep shopping here. But a giant discount warehouse has moved in across the street. The merchandise is excellent.... and the terms are better. To survive.... to prosper.... Alaska and the companies that do business here must meet that competition.

Slide 4 -- UK fiscal history

- This graph shows how the United Kingdom has moved, incrementally.... and systematically to ensure the continued competitiveness of the North Sea.
- In 1984 they eliminated royalties on new fields.
- In 1993 they eliminated the Petroleum Revenue Tax, which is similar to Alaska's severance tax on new fields.
- Today....depends on 33 percent corporate income tax to collect incremental revenue on new production.

Slide 5 -- Fiscal regime comparison as of 1994

- This slide compares fiscal regimes in UK, offshore Australia and Alaska.
- All have corporate income taxes. In Alaska combined state and federal take is about 39 percent. (35% federal plus 9.4% state equals 39% total because of deductibility of state taxes on federal returns.)
- Of the three.... only Alaska has royalty, severance and ad valorem on new fields.
- Now, you've had a look at the competition. Now.... what can we do to ensure that oil and gas investment in Alaska remains competitive with opportunities elsewhere in the world?

Slide 6 - Summary of world wide fiscal regime comparisons

- During 1994, Petroconsultants surveyed the oil and gas fiscal regimes in 70 countries.
- Survey shows that 18 of the 22 nations with production greater than 200 M bopd rely on production or profit sharing arrangements to derive revenue from oil and gas production.
- Alaska, and the United States are not among the 18. Alaska and the United States are among only three countries which still employ a fixed rate royalty.

Slide 7 - What it takes

- Industry, state must work together to create competitive environment.
- Industry must focus on keeping cost structure low.
- State -- faced with declining production and revenues -- faces many of the same challenges. We support efforts to gradually balance spending with revenues, closing fiscal gap and achieving soft landing.
- Encouraged by what we're hearing from Administration, Legislature about budget discipline. Closing fiscal gap will increase investor confidence in Alaska.... and give us confidence that any incentives you provide today..... will be honored tomorrow.
- State must develop a more competitive tax and royalty structure for new fields. Alaska must meet the competition.
- Finally, the state must be willing and able to consider alternative business arrangements when necessary for marginal projects. Current regulations may not provide necessary flexibility.

Slide 8 -- Immediate actions

- I know that many of you are eager to take immediate action to improve Alaska's competitiveness. I'm encouraged by your enthusiasm and willingness to consider positive change. However, we must move carefully, coordinate among the legislature, the administration and industry and ensure that the steps we take are the right steps and will be effective.

- That's why I'm recommending today that your first step be a comprehensive review of the incentives the Legislature has already approved.

- Are they being used effectively? Are they being used in the way you intended? Are they obtaining the results you expected?

- **Exploration Incentive Credits:** State has exploration incentive credit program. DNR still grappling with how to administer. Rules, guidelines unclear as to what qualifies, what doesn't. In fact, regulations don't exist yet.

- In the last year, we've approached DNR three times. We've been turned down three times. We're concerned about the final form these regulations will take and believe that in order to be effective, the incentive must apply to a broad range wells.

- For example.... any well that meets the IRS / SEC definition for an exploratory well. Simple, straightforward application of exploration incentive credits could increase the number of exploratory wells drilled in Alaska every year, attract outside capital to Alaska and increase the likelihood of additional commercial oil discoveries.

- **Lease Sale / Land Access:** Existing program not working well. State having difficult time maintaining sale schedule. Even when sales occur, lawsuits likely. Increased certainty created by HB 308 appreciated. The administration and legislature worked well together to enact that law.

- **Discovery Royalty Credit:** Currently covers only the lease on which the discovery well is drilled. Good for ten years from date of discovery. Time required to permit, develop Alaska

discoveries reduces value / incentive of this credit. This credit would provide more of an incentive if, for example, the credit were applied for five years from date initial production and / or were applied to leases covering the entire discovery. This would make investment in the new fields more attractive because the credit would lower our up front development costs.

SUPPORT FLEXIBILITY DNR ROYALTY RELIEF

- **Prolonging Economic Life:** Statutes allow DNR to reduce royalty in specific circumstances on fields nearing the end of their productive, economic lives. However, this relief is difficult to attain. Companies sometimes required to jump through impossible hoops. For example, one Cook Inlet operator was asked to provide detailed cost records back to field discovery. The company couldn't provide those records because it didn't have them. It had purchased the field from another operator. And yet, that was the reason the royalty reduction was declined.
- **Lease Sale Terms:** Existing lease sale program not working. Number of bidders participating in sales is half what it was six years ago. Your old customers aren't coming in the door anymore. They are going where the deals are better, the returns are higher.
- Lease sale bonus bids not major source of revenue for state, especially when compared to severance, royalties. Revenue results from production. State should be doing all it can to encourage evaluation and exploration of its lands.
- Existing law gives DNR authority to vary lease terms, relying less on bonus bids and offering more attractive royalty terms.... net profit share royalties, for example, in place of fixed percentage.
- In fact, we have proposed a net-profit share royalty for State Lease Sale 79 scheduled later this year. We think this approach will increase interest and participation in the lease sale.

- **Smaller Discoveries:** Exploration may yield discoveries which are too small or too marginal during periods of low oil prices to carry the royalty rate under which they were originally leased. DNR has flexibility to reduce royalties in certain circumstances. However, that authority may not extend to new discoveries.

- There should be a means through which the state can help bring these fields on production by reducing the royalty burden. We need a mechanism which allows us to ask for royalty relief and the state to grant it if the state deems action necessary and beneficial.

- **Federal Tax Incentives:** As you saw earlier.... in the UK, Australia, Alaska comparison..... Alaska is the only jurisdiction in which industry is taxed by multiple jurisdictions. There have been some discussions of federal incentives for the oil and gas industry. We would urge you to express your support for those proposals.

- State support of efforts to open ANWR and lift the Export Ban are also necessary.

COMPETITIVENESS

- Finally, we urge you to support and participate in a broad-based process to develop recommendations aimed at enhancing Alaska's international competitiveness.

Slide 9: Next steps

- Making the changes necessary to keep Alaska competitive will not be simple or easy. The initiatives the state undertakes must be chosen carefully, through an open, public, bi-partisan process which involves the legislature, the administration and the industry.

- We must ensure that the steps we take are the right steps. We must understand the competition. We must know and understand what other oil provinces are doing to attract oil industry investment.

- Only then can the administration and the legislature begin to develop options.
- This process will take time. I know that many are eager to act today. But this is far too important a process to hurry along. We must build public consensus if this effort is to succeed.
- I know concern has been expressed that variable or sliding scale royalty rates would adversely impact contributions to the Permanent Fund.
- Again..... I'd ask you to remember that the changes we're asking you to consider are changes designed to turn oil accumulations which are zeroes today --- into jobs, production and additional revenues. Contributions to the Permanent Fund will be higher than they would otherwise be.
- You..... as legislators will decide how to allocate incremental revenues from incremental production.

Slide 10: Conceptual "fixed / variable" royalty

- This slide shows one of the options available to you. The vertical axis is the royalty percentage. Here the royalty percentage increases as a function of oil price, well productivity or field size..... increasing from a low of 6.25 percent ramping up to percentages which would exceed the traditional 12.5 percent.

That's the variable portion of the royalty.

- The shaded area shows the contribution to the Permanent Fund. For this illustration..... we've set the minimum contribution at 6.25 percent, which is the prescribed contribution for production from leases issued since 1979.

As you can see..... the permanent fund contributions could be protected.... and even enhanced if the royalty rate exceeded 12.5 percent because of high oil prices or the discovery of a very large field.

Slide 11: Project partnering

- No matter what the oil price is..... no matter what the state's ultimate tax and royalty regime..... there may be projects on the margin.
- ARCO will look for ways to make these projects happen..... by lowering their cost....developing new technology..... reducing their scope. Those efforts may not always be successful.
- If we can't make a project work on our own ... we may ask you to help us find innovative ways to make the project happen.
- We envision a process in which we explain the project.... in which we explain the economics.... in which we lay our cards on the table. Then it's up to the state to evaluate the data and determine whether the proposal offered is in the state's best interest.
- West Sak might fall into this category.
- We are re-evaluating West Sak at this time. Our goal is to find a way to begin West Sak production at current and expected oil prices. This is a difficult challenge. It will take new technology and continued reduction in our operating costs. We don't know if we can get there from here.
- If we can't, we may be coming to you with a proposal. We'd like to think the state is willing and able to consider and implement new ideas for making West Sak happen.
- The state can make a difference. State can change the economic equation for marginal oil accumulations in Alaska. I'd like to close this presentation by showing you what can happen..... what did happen in the UK.
- Other areas which might benefit from project partnering are the Lease Sale 79 area, the Western Colville and for fields near

abandonment..... which would not impact ARCO, but might help some Cook Inlet operators.

Slide 12: Capital expenditures UK

- This slide shows capital investment in the UK after the UK began turning zeroes into positive numbers by reducing the tax and royalty burden on new fields...
- The slide shows that \$45 billion has flowed to the UK North Sea for development of new fields. 23 new fields have come on production since 1985. Twelve new fields are scheduled to come on line this year. That's 35 new fields.....

Slide 13: UK North Sea production

- Production from new fields totals more than 1 million barrels a day and accounts for 40 percent of UK North Sea production. UK North Sea production is at record levels.
- The UK changed the economic equation for new, marginal North Sea fields.
- If we work together.....the legislature, the administration and the industry..... we can do it here.

Testimony of

**James A. Palmer
Director, External Affairs**

BP Exploration (Alaska) Inc.

to the

**House Resources
&
House Oil & Gas committees**

**Juneau, Alaska
February 15, 1995**

Good morning. My name is James A. Palmer, and I am director of external affairs for BP Exploration (Alaska) Inc.

Given our common challenges and shared opportunities as an industry and as a state, it's particularly fitting that we're gathered here together today to explore how we can work together to attract new industry investment to Alaska. BP is pleased to be part of this new dialogue, which we hope will lead to a new era of cooperation between state government and the state's largest investors and taxpayers.

Our industry has gone through an extended period of unprecedented change -- often painful -- to arrive at our current crossroads. We've experienced downsizing, rightsizing, restructuring, realignment, outsourcing, alliancing, shared services, streamlining, technological breakthroughs and countless other innovations and upheavals in the way we do business in order to remain competitive in the global market.

As a result, we've been able to reduce costs in a climate of declining production, we've been able to hold overall production decline on the North Slope to less than 5% per year. We have been able to hold decline to these levels only by continuing to invest in new and existing fields on the North Slope. This year we plan to invest more than a half a billion dollars of capital in Alaska, successfully competing within BP for those funds.

These investments generate jobs for Alaskans and revenues for Alaskan businesses. They help to sustain the flow of revenues that fund state government spending and fuel future investments in the Alaskan oil industry. They extend the lives of our North Slope operations, and they hold one of the keys to Alaska's economic future.

Despite our best efforts within the industry, however, we remain under siege from a variety of forces undermining our efforts to attract additional investments to Alaska. In real terms, the price of oil has been on a downward trend for the past 15 years. This, combined with declining production in Alaska, has slowed the flow of revenues that fund future investments.

At the same time, a world of new investment opportunities -- literally as well as figuratively -- has been opening up to the oil industry due to falling political barriers, new technologies and friendlier relationships with many host governments in oil provinces around the world. In this global environment, companies are limiting the scope of their activities and becoming increasingly selective in choosing which projects to pursue. Investments are directed to areas offering the highest returns with the lowest risks.

Alaska is disadvantaged in this fiercely competitive environment for increasingly scarce investment capital due to our remoteness, our high transportation costs, our restricted markets, a state budget deficit that casts a cloud of uncertainty over all of our investments and a history of antagonism between industry and the state. Furthermore, the opportunities that do exist on the North Slope consist of marginal new oil fields or marginal projects within existing fields.

The first step toward capturing the significant potential for new investments, revenues and jobs in Alaska in this emerging era of marginal development on the North Slope is redefining "us and them" to mean Alaska's *unity* as we compete globally for increasingly scarce investment capital rather than our *divisiveness* as we fight among ourselves. It's imperative that we work together to take tangible steps *today* toward a strong and stable industry, toward a strong and stable Alaskan economy *tomorrow*.

We're encouraged that the legislature is taking initiatives such as your hearing today to provide forums for the dialogue that will enable us to work together to develop win-win solutions to our common challenges. We're also encouraged that the governor has made unity between government and business a theme of his new administration and has reinforced his words with his actions since he took office.

The progress the State of Alaska and BP have made in the past year working cooperatively to lift the federal ban on North Slope oil exports is testimony to what we can accomplish together. Ending the ban will truly be a win-win outcome that will both enhance the flow of revenues to producers and the state and enhance the competitiveness of Alaskan investments.

Resolution of significant past tax disputes during 1994 have improved the investment climate in Alaska. We can now focus our efforts on the future without looking over our shoulders at liabilities of the past.

Recently enacted tax regulations have helped to clarify how to value oil for tax purposes for companies that refine their own oil. However, the same vagueness that led to past disputes continues for companies like BP that sell or trade the oil they produce on the North Slope. Vagueness equals uncertainty, uncertainty equals risk, and risk equals competitive disadvantage in our efforts to attract capital to Alaska.

Tax clarity for all producers would reduce our risk and would be a significant win for us and a significant win for the state. By helping to minimize our risk, you can strengthen our position to compete for investments that will benefit us all.

The fiercely competitive global environment in which we operate makes it an uphill struggle, and the marginal nature of projects we have to pursue on the North Slope makes the hill even steeper. We in BP and in the oil industry are doing all we can to compete for these investments.

Consider the Badami discovery about 30 miles east of the producing Endicott field on the North Slope. This field is typical of the projects in the 100- to 150-million-barrel range we expect will be developed over the short and medium terms. The first hurdle we must clear is confirming the size and quality of the reservoir. We're currently drilling two appraisal wells and hope to have the results assessed by this fall. We believe Badami must hold at least 100 million barrels of recoverable oil in order to have a *chance* to make it commercially viable.

If we clear that hurdle, we're still a long way from having a project. When we first began to evaluate Badami about a year ago, we identified four primary obstacles: it was too costly, there was too much time between discovery and production, there were time-consuming regulatory roadblocks, and there was no hedge against the risk of low prices. All four still remain, and we've been doing everything within our power to overcome them.

The cost hurdle is enormous. Our initial projection of the development cost, based on doing things the "old" way, was \$800 million. We must reduce the pricetag by more than half in order to enable Badami to compete effectively for development funding.

In our effort to reduce costs without compromising safety or the environment, we've considered a myriad of innovative development techniques -- a buried, chilled pipeline, facility sharing and remote operations, to name a few. We've also assembled a team of key contractors who are working with us to find solutions to the cost challenge.

Traditionally, we'd be waiting for the results of this winter's wells before taking this step. However, traditions that have evolved over the past two decades of North Slope oil field development won't overcome the challenges posed by the marginal development opportunities of the future.

Timing is crucial, and it's imperative that we shorten the period between discovery and production. That's why we've assembled contractors now rather than later and asked them to work together as a team. It's also why we initiated discussions with state, federal and borough regulators months ago instead of later, when we filed for permits.

This approach unquestionably adds to our up-front risk. We understand there are no guarantees, but it's a risk we believe we *must* assume in order to have a *chance* to make this project viable. We also believe it will help to incorporate the best ideas into the planning process, and we hope it will help to resolve official and public concerns about the project and help to expedite the permitting process.

There's one other risk that we must manage, and that's the risk of low prices. That's why we're interested in a sliding-scale royalty for Badami that would be sensitive to oil prices. This would help to minimize our risk exposure to low prices, and it would enhance our prospects for making development commercially viable.

The sliding-scale royalty concept would enable us to share the risks of low prices and the rewards of higher prices with you, our co-beneficiary, if you will, in having Badami developed.

Badami is neither competitive nor commercially viable today. Our shared goal with the State of Alaska must be to *make* it competitive and commercially viable so we can share the benefits of the production, the revenues and the Alaska jobs the project would generate.

If we're to work together to successfully attract investments to Alaska, we must all be flexible in approaching the challenges and opportunities posed by each new project. We believe this suggests a broader discussion in the legislative arena of the use of royalties as a development incentive tool.

We believe it is appropriate for the legislature to consider giving the commissioner of Natural Resources the authority to adjust royalty terms on new developments on a case-by-case basis if changes are needed in order to make a project viable.

Some of the criteria that might be considered in reviewing royalty terms are:

- Does the project need a major cost breakthrough in order to be competitive?
- Even if it overcomes the initial cost hurdle, will it still be vulnerable to low oil prices?
- Could it bring jobs and new technology to Alaska?
- Could it make other exploration, appraisal or development projects more attractive?

We're not suggesting that flexible royalty terms are necessary -- or even appropriate -- for every project. But to the extent that they can be used to enhance the competitiveness of projects whose funding otherwise might go elsewhere, it's important that the state have the tool available and ready for use.

Whether to grant flexible royalty terms -- and what kind -- will be a judgment call on the state's part. It will be incumbent on companies like BP that are seeking them, therefore, to be completely open and forthcoming with the information state regulators need in order to make that determination. Only then can we deal with each other in an honest and collaborative manner and work together toward our common objective of securing new investments.

This is not the time for demands. It's not the time for threats or hollow promises, and it's not the time for brinksmanship or posturing. It is the time, if we're truly committed to working together to capture Alaska's share of industry investments, for constructive, open, productive dialogue such as we're having today that leads to win-win solutions for the industry, for state government and for all Alaskans.

I pledge BP's complete, unconditional cooperation and support in this endeavor. Thank you.

Dept. of Revenue

New Revenue Commissioner Wil Condon says his job is to make "this place work." Major policy will be left to Gov. Knowles, he says. Condon also believes that many of the big areas for disagreements with oil and gas taxpayers will soon be behind us. He believes the new tax regulations will help. Page 2

Cook Inlet

Unocal says "external" regulatory factors like potential new effluent discharge restrictions and escort tug requirements could shorten the economic viability of many Cook Inlet platforms. Page 7

Air Quality

Officials in DEC's air quality division are concerned that permit fees under the new Title V program may not be sufficient to meet costs, and are looking at ways to streamline administration. Page 6

Water Quality

Alaskan municipalities and resource industries, including oil and gas, are gearing up for another round on those new water quality standards. Meanwhile, DEC is adding new "anti-degradation" language to meet EPA requirements, including a new water body classification — "outstanding national resource waters." Page 7

INSIDE

OIL & GAS

Published By The Alaska Oil & Gas Association

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Lawmakers look at ideas for new development incentives

State legislators in Juneau are looking at how new fiscal incentives might strengthen Alaska's ability to attract new oil and gas investment, a problem highlighted in a recent study on competitiveness by consultants Gaffney, Cline & Assoc., for the State Dept. of Commerce and Economic Development. The Senate Resources Committee, chaired by Sen. Loren Leman, held hearings Feb. 1 to hear industry's views. House Resources Committee, chaired by Rep. Joe Green, will take up the subject Feb. 15. Here are excerpts from the Senate Resources hearing:

ARCO:

No tax changes on existing production; new tax and royalty approaches should be considered on marginal fields

ARCO Alaska President Ken Thompson said his company would not ask for tax or royalty changes on existing production on the North Slope, "because we know the state depends on these revenues ... We are asking, however, that there be no new tax increases on existing production," considering there have already been 13 increases since just prior to Prudhoe Bay start-up, he said.

But ARCO does believe that, "for new investments in marginal or noneconomic reservoirs in existing fields, and for small to moderate-sized new field discoveries, new tax and royalty changes should be considered to make investments competitive."

"But before new ideas can be discussed, it is so important to realize that first, our industry and the government must learn to better trust each other and to have more open communication...we need a true 'partnership' relation."

BP:

Tax clarity reduces risk at no cost to the state; suggests sliding scale royalty pegged to oil prices for Badami

BP Exploration (Alaska) Inc.'s Director of External Affairs Jim Palmer noted that Alaska's industry has gone through "an extended period of unprecedented change,

Continued on Page 3

INSIDE: Department of Revenue

Condon: 'My job is to make this place work'

New state revenue commissioner Wil Condon says administering state taxes more efficiently and effectively is the best contribution the Department of Revenue can make toward Gov. Tony Knowles' goal of an improved business climate in Alaska. "My job is to make this place work," he says. If the governor or legislators want to examine policy options, for example, in response to the state's pending fiscal gap, "we want to make sure they have the tools to do it with," he says. "I'm not in the vision business." Broad policy initiatives will be left to his boss, Gov. Knowles, and to legislators.

There are, however, issues one level down from the broad policy arena the department will be working on. New oil tax regulations that went into effect at the start of the year will resolve many problems in tax administration, but there are some remaining issues the department, and the petroleum industry, are committed to resolving, Condon says.

A priority will be for the Division of Oil and Gas Audit to complete its work on long-standing oil and gas tax disputes. A goal of Condon's is to enable the state and industry to identify disagreements early and to resolve them quickly.

From now on, auditing and resolving issues in oil and gas taxes should move more smoothly and quickly, Condon explains.

The new commissioner says there are two reasons: First, new tax regulations will help resolve complex problems created by crude oil being sold in distant, and different, markets, he says. The state and industry agree that Alaska's oil tax situation is unique: Alaska is a big producer, but unlike long-standing traditional producing areas like Texas, relatively little crude oil is actually sold in the state. Because most of Alaska's oil is sold elsewhere, and in different markets (west coast, gulf coast), there will always be some disagreements over the relative values of oil transactions and transportation costs. The department has been wrestling with this for 15 years, Condon says, but the new tax regulations will help considerably.

Secondly, many past-year tax disputes arose out of disagreements between the industry and state as to how crude oil was to be valued during years when federal price controls set the price at which domestic oil, including Alaska, could be sold. "That was a perfect recipe for a 15-year, \$5 billion tax dispute," Condon says. Once the "books" are closed for those years, the department's auditors will be working in tax years when market prices more clearly set the value of oil, which should reduce potential for

disagreements.

Condon has been in private law practice in Anchorage and was deeply involved in the state's effort to litigate oil and gas royalty issues, including the subsequent settlement of the so-called "Amerada Hess" case, as well as in more recent tax disputes. He was State Attorney General from 1980 to 1982, Deputy Attorney General from 1975 to 1980, and was an Assistant Attorney General from 1971 to 1975. He received his undergraduate and law degrees from Stanford University.

Alyeska moving on audit items; 85%-90% completion in 1995

Alyeska Pipeline Service Co. completed 70 percent of the 4,900 work items identified under the federal audit by the end of 1994, and plans to have all the electrical items and 85 to 90 percent of all other work completed by the end of 1995, according to Doug Webb, Alyeska's public affairs vice president. Speaking at the Resource Development Council in January, Webb said Alyeska had mobilized about 1,000 people to work on the program during 1994.

Webb also said Alyeska has committed about \$100 million to \$125 million to 1995 capital projects.

The Alaska Oil and Gas Association is a private, non-profit industry trade association. Its members are companies engaged in oil and gas exploration, production, refining and marketing activities in Alaska. AOGA serves as a forum for its members to coordinate common public and government affairs efforts.

The AOGA newsletter, Inside Oil and Gas, is an informational publication published twice monthly, intended to update and advise its members and interested individuals on issues of interest. The views and opinions expressed in the newsletter do not necessarily reflect the views or opinions of individual AOGA member companies. Unless specifically stated as such, no opinions, views or positions in the newsletter are AOGA opinions, views or positions. Alaska Oil and Gas Association, 121 West Fireweed, Suite 207, Anchorage, Alaska 99503. Phone: (907) 272-1481. Judy Brady, Editor.

Incentives: Tax clarity, fiscal gap also important

Continued from Page 1

often painful ... in order to remain competitive in the global market."

"As a result, we've been able to reduce costs in a climate of declining production, we've been able to hold overall production decline on the North Slope to less than 5 percent a year... by continuing to invest in new and existing fields on the North Slope," Palmer said. At the same time, a world of new investment opportunities has caused companies to limit the scope of their activities and become increasingly selective in choosing which project to pursue, Palmer said. Alaska has already made gains in reducing risk by resolving past tax disputes, and enacting new tax regulations. "Tax clarity for all producers would reduce our risk at no expense to the state," he said.

But additional measures may be needed to compete for capital for marginal projects. For example, BP has suggested, for discussion purposes, a sliding-scale royalty pegged to oil prices for the Badami discovery east of Prudhoe Bay.

Exxon:

First tackle fiscal problem; second, improve administration of tax regulations

Exxon U.S.A.'s Alaska Production Manager Jim Branch told the committee his company felt state fiscal reform, tax and regulatory stability and clarity, and improved cooperation between the state and industry "are the most important initiatives that will have the greatest positive impact on investor perception and confidence in our state."

"First, the most important message the state can send any potential investor is that the budgetary problems that have plagued the state in the past are being corrected," Branch said. "Second, the state should improve the administration of its tax regulations to provide clarity, predictability and reasonable balance in the interests of both the state and the taxpayer."

These objectives addressed, Exxon does believe "well-designed exploration and production incentives have a role in enhancing the specific project, but any incentive should increase overall state revenues, not just subsidize one field at the expense of another. The incentive should have general applicability to all members of industry on a consistent basis."

"The state and all of industry wins when a well-designed incentive 'makes the pie bigger' without penalizing someone else in the process," Branch said.

UNOCAL:

Reduce or eliminate royalty on marginal producing property to extend platform life; regulatory issues critical to Inlet production

Unocal's Alaska Land Manager Kevin Tabler, now the major Cook Inlet offshore operator, said "we are at a critical juncture in the continued development of the existing producing fields in Cook Inlet." Tabler said. "We need to create a more favorable climate to eliminate uncertainty." Tabler said the state could help ease major economic uncertainties for Inlet operators, caused mostly by regulatory issues like facility abandonment requirements and discharge limitations.

"Reducing or eliminating the state's royalty on ... marginal properties could make the projects economically viable and significantly increase the economic life of the platforms, thereby maintaining employment and the associated community benefits," Tabler told the committee.

As for fiscal incentives, Tabler suggested there were many options, including reduced royalty being tied to future development in the same field or area and royalty could be reduced on new field exploration until payout. "The recovery of capital costs by the investing party before the non-investing party participates is a standard in the industry and a solid concept in joint-venture partnerships," he said.

Tabler also urged the state to broaden application of exploration incentive credits, which are already on the books. "Amendments to make them more accessible or usable would encourage investment," he said.

Marathon:

Cook Inlet producers to work on consensus approach to incentives; state should consider an independent appeal process for tax disputes

Marathon Oil's Alaska Region Manager Ralph Dartez said his company is working with other Inlet producers to identify a "consensus approach" on incentives that might work in the Inlet and Kenai Peninsula. Dartez complimented the Dept. of

Continued on Page 6

Alaska Oil & Gas Taxes



CURRENT TAXES:

Income Taxes: **9.4% Corporate Income Tax**
Property Tax: **20 mills/2% of assessed value**

Severance/Production:



GAS

10% of Market Value or \$0.064 per MCF, whichever is greater.



OIL

12.25% of Market Value for first five years, 15% after first five years or \$.80 per barrel, whichever is higher.



OIL

Oil & Gas Severance Taxes subject to Economic Limit Factor (ELF). *See next page.*

Conservation Tax:



GAS

4 tenths of a percent per 50,000 cubic feet of natural gas.



OIL

4 tenths of one percent per barrel with conservation surcharge of \$0.03 and \$0.02 per barrel of crude oil to fund Oil and Hazardous Substance Release Prevention and Response Fund (\$0.02 per barrel surcharge suspended when Response Account balance equals \$50 million.)

Alaska Oil & Gas Incentives

Economic Incentives: PRODUCTION/ DEVELOPMENT



Economic Limit Factor - AS 43.55.013

The respective severance tax rates for oil and gas are reduced by a field's ELF. During the life of a field, production diminishes faster than operating costs. At the economic limit, total costs including operation costs, royalties and production taxes exceed gross revenue and the field becomes uneconomic. Production tax rates for each individual field are modified by the economic limit factor (ELF) which is a value between zero and one. The ELF is a factor which is multiplied by the nominal production tax rate to derive an effective production tax rate for each field. The ELF varies based upon a field's size, as measured in total throughput, and by the field's average per well productivity.

Co-Mingling - 15 AAC 55.027

...of the new production tax regulations (effective Jan. 1995) allow producing fields to share facilities while maintaining each field's "distinct field" status for ELF purposes. Three "sets" of fields are currently sharing facilities. Section 027 of the new regulations provide for appealing Department of Revenue's de-

cision if an application is denied. The Commissioner of Revenue makes the ultimate decision.

Non-Taxed Produced Gas - 15 AAC 55.151 (e)

...of the new production tax regulations allow free use of gas for enhanced recovery purposes.

Royalty Reduction - AS 38.05.180 (j)

After two years of lease production, royalty may be reduced to prolong economic life of a field. Lessee must show revenue is insufficient to yield a reasonable rate of return. DNR commissioner has authority to approve royalty reduction.

EOR Credit - Code Sec. 43

Federal Enhanced Recovery income tax credit deduction may be claimed on state income tax. May be taken as a line item deduction on state income tax return. Department of Revenue does not have compiled information on number of companies or amount of credits claimed or allowed.

Industrial Incentive Credit - AS 43.20.042

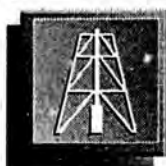
Credit of 10% of cost for gas processing projects applied against income tax. May be taken as a line item deduction on state income tax return. DOR does not have information on the number of companies or amount of credits claimed or allowed. Through the audit process claims can be contested or

denied. Appeals are handled through the existing appeals process i.e., informal conference and formal hearing process. The Commissioner of Revenue ultimately signs the findings of the formal hearing.

Discovery Royalty Credit - AS 38.05.180 Repealed by Chapter 65 SLA 1969

Provides that a lessee who makes first discovery of oil or gas in commercial quantities in a geologic structure pay a royalty of five percent for 10 years following the date of discovery and 12.5 percent royalty thereafter. Some leases issued up to the point of repeal could still qualify.

Economic Incentives: EXPLORATION



Exploration Credits: AS 38.05.180 (i)

Provides for a credit of up to 50% of certain exploration costs that can be applied against royalty, rentals and severance taxes due the state. This provision is accomplished by state leases. Covers two years following the lease sale and applies to well footage drilled and geophysical costs. Geophysical data must be made public. EIC has been offered in 10 sales. Credits have

been granted on 20 EIC wells. 11 AAC 83.820 defines the process for appeal to the DNR Commissioner, who makes the final decision.

NEW EXPLORATION INCENTIVES



Exploration Incentive Credits - AS 41.09.100

Provides for a credit of \$5 million per project (total of all credits \$30 million) for geophysical work, exploration or strat test wells. Credit may be applied against taxes or bonus payments. Credit may not exceed 50% of eligible costs on state-owned land and 25% on land not owned by the state. Credit must be used within 5 years and may be assigned. Data confidential for 24 months. Status - Regulations pending.

Exploration Licensing AS 38.05.132

Provides for licensing of up to 500,000 acres conditioned upon an obligation to perform a specific work commitment. (Maximum acres which can be held under license 2 million acres.) Gives licensee option to convert to lease upon completion of work commitment. Status - Regulations pending.

DEC's air program: Can its costs be cut?

Department of Environmental Conservation's air quality group is wrestling with the problem of how to get the Title V program costs within projected revenues to be received by the new \$78 per hour processing fee and \$5/ton annual "emissions" fee (federal law requires fees to cover total costs of the program). With the regulations, and the new program now in the approval process, targeting an effective November implementation (assuming EPA approval), DEC now has a better handle of what the program will cost. If the program is managed similar to the existing air program, costs would increase from the original estimate of \$3 million per year to an estimated cost of \$5 million. DEC officials say part of the reason the costs are higher is because some "overhead" items were not included in the original estimate, such as public information and complaint-response activities.

Changes possible in hourly fee or annual per-ton emissions fee, agency says

DEC adds that if \$5 million were to be covered by higher fees, substantial increases in either the hourly charge or the per-ton charge, or some combination of both, would be needed. The first task, officials say, is to take a hard look at how the air quality group runs things to see if efficiencies can be gained. For example, some personnel in field offices are in so-called "rainbow" positions with jobs split among several functions (air and water quality, solid waste, oil pollution, etc.). It might make more sense (and the accounting would be easier) to have people purely dedicated to working air permits, officials say.

Marathon, Texaco suggest state should be more open to existing incentives

Continued from Page 3

Revenue's progress in defining taxable value, but said "we believe development of an independent appeals process for tax disputes could ultimately provide a means for reducing uncertainty for the taxpayer." As for royalty reductions, Dartez said Title 38 already delegates some authority to the Dept. of Natural Resources, "to consider royalty reductions for fields where weak economics threaten the future life of the field. We would like the state to review the statute and how it has been administered historically." Future requests should be considered, "more openly and aggressively," he said. Marathon views future exploration opportunities as small to moderate in size. "Economics ... are likely to be dependent on availability of existing infrastructure. Therefore, it is critical that new discoveries be made soon, before existing infrastructure surpasses its economic life," Dartez said. Land access is still the number one concern. "We appreciate the efforts of the legislature last year in passing Senate Bill 308, which provides more certainty to the lease sale process," he said.

Texaco:

Allow industry to use current incentive programs

Texaco USA's Alaska Land Manager Pete Nelson said the interest in incentives was, "very timely in terms of the current low ebb of exploration and production of marginal fields, declining Prudhoe Bay production and the beginning of an opportunity with the new administration to make things better." Nelson, herself a 19-year veteran with the State Dept. of Natural Resources, complimented the legislature with having done a pretty good job in passing incentive measures, and the executive branch in writing regulations to implement the legislation. "However, recent administrations have lacked the desire and motivation, and therefore the appropriate policy, to encourage or even allow industry to fully use these incentive provisions." Nelson cited two examples of problems from Texaco's experience, one a marginal Cook Inlet producing property where the company applied for royalty reduction, and second, an Exploration Incentive Credit applied on a North Slope exploration well.

Small companies look at ways to make Alaska more competitive

Small companies working in Alaska also commented at the hearing. Dan Donkel, president of Danco Exploration, Inc., suggested a holiday on royalties on new wells drilled until investment "payout" is achieved; more effective ways of resolving disputes between companies and the state; and a "one-stop" permitting process for oil and gas companies. Bill Stewart, president of Stewart Petroleum, suggested the five percent "discovery" royalty, repealed by the state in 1970, be reinstituted; that ways be found to make more acreage available for exploration, permitting be simplified, and that oil spill bonding requirements, which work a particular hardship on independents, be eased.

Discharge limits, rules on tugs threaten Inlet

Mature oil and gas fields in Cook Inlet are uniquely vulnerable to "external" influences, such as changes in effluent standards, requirements for tanker escorts, and state facility abandonment requirements, Unocal Alaska Land Manager Kevin Tabler told the Senate Resources Committee Feb. 1. "Any one of these external influences significantly impacts the economic viability of our operations and accelerates field abandonment." Four of the 10 inlet producing platforms operated by Unocal produce less than 2,000 barrels of oil daily. Unocal committed over \$80 million in new capital investments in the last two years on its platforms, "with the potential to spend an additional \$31 million in 1995," Tabler said. "But it may be difficult to commit additional capital to develop these properties due to their short remaining platform lives and marginal profitability."

Presently, platforms in the Inlet are allowed to discharge "produced water" (water brought up from underground reservoirs with oil and gas) as well as drilling cuttings and "mud" (used in drilling fluid, mostly natural compounds). If federal agencies apply "zero discharge" requirements to Cook Inlet, retrofit costs on Unocal's platforms will exceed \$50 million, resulting in the premature closure of the Trading Bay and McArthur River fields. "This would result in lost revenues of over \$500 million, most of which goes to the local community, and approximately 800 lost jobs. The state would lose nearly \$100 million in royalties and taxes," Tabler said.

The U.S. Coast Guard is currently considering a requirement that tankers be escorted by tugs in U.S. waters. If Cook Inlet is not allowed an exemption, this would add \$5 million per year per tug to operating costs, Tabler said. "If we are forced to divert our funds toward escort vessels, most likely the owners will not be Alaskan and that money will flow out of the state."

Cities, resource groups gear up again to push new water quality standards

Dept. of Environmental Conservation has set April 19 as the deadline for the new round of public comments on its revised water quality standards, adopted as regulations Dec. 5, 1994 but appealed by the Sierra Club Legal Defense Fund on Jan. 12, 1995. Municipalities and resource industries (including oil and gas) are gearing up once again to present arguments in favor of the new regulations. Public hearings are set for March 17 in Fairbanks, March 20 in Anchorage, March 22 in Juneau, with a statewide teleconference from teleconference centers in Legislative Information Offices set for March 28. A package of public information materials on the standards will be available in DEC offices Feb. 13.

In addition to the five sections addressed in the SCLDF petition, DEC is proposing a new "anti-degradation" section to be added to bring existing anti-degradation language in state regulations (where it has existed, in various forms, since 1970) into technical conformity with EPA requirements. The actual wording changes are relatively minor, but the section's absence from the package approved by former Lt. Gov. Coghill on Dec. 5 prompted objections from EPA, and could have been an issue raised in litigation, DEC staff sources say. The agency had actually included it in the previous package but deleted it at the last minute at the request of state attorneys, who felt certain changes might not have been properly noticed to the public.

New section added provides for "outstanding national resource waters" classification

What anti-degradation essentially means is that existing quality of water bodies will be maintained unless a "lowering" of water quality (i.e. by allowing discharge of a pollutant) is demonstrated to be necessary to accommodate important economic and social development. However, a new section being added, also needed to comply with EPA requirements, requires protection of existing water quality in "outstanding national resource waters." The new language is verbatim from EPA regulations, but what the section doesn't do is provide how outstanding national resource waters are determined. The section proposed last year provided for the legislature to lay out a system for nomination of outstanding waters for subsequent approval by the legislature, much as state parks or refuges are established. A process to nominate those waters will be set up later, DEC said. Meanwhile, "phase two" of the triennial water quality revisions is on hold until the current review is finished, DEC said. Phase two includes setting a "fish consumption" level to be used in the formula calculating human health risk levels (and therefore, allowable pollutant discharge levels) and specific human health risk criteria for several listed pollutants.

Upcoming events

Feb. 17, 1995: Deadline for submission of recommendations for changes to air quality control regulations. Comments should be submitted to John Stone, DEC, 410 Willoughby Ave. Suite 105, Juneau, Alaska 99801. Phone: (907) 465-5100.

March 29-31, 1995: The Fifteenth Annual Governor's Safety & Health Conference, sponsored by the Alaska Safety Advisory Council, will be held at the Sheraton Anchorage Hotel, Anchorage. Contact: Rebecca Custard, Labor Standards and Safety Division. Phone: (907) 269-4916.

April 19, 1995: Deadline for public comments on Alaska water quality regulations. Fairbanks hearing March 17; Anchorage March 20; Juneau March 22; statewide teleconference March 28. Contact: DEC Water Quality Management Section. Phone: (907) 465-5300.

Senate reconsiders vote on Long Range Financial Planning Commission

As this goes to press, the State Senate is preparing a final vote on HCR-1, a resolution creating a Long Range Financial Planning Commission to make recommendations on solving the impending state fiscal gap. The measure failed in the Senate Feb. 10 when HCR-1 failed to get 11 votes needed for passage. Senators will vote on "reconsideration" Feb. 14.

Alaska Oil and Gas Association
121 West Fireweed, Suite 207
Anchorage, Alaska 99503

SCOMM

99:7

Dr. Andrew W. Trites

Dr. Trites received his B.Sc. in Ecology and Mathematics at McGill University in Montreal in 1980, his M.Sc. in Zoology from the University of British Columbia in 1984 and his Ph.D. in Zoology from the University of British Columbia in 1990.

He is currently Assistant Professor of the Fisheries Centre and Zoology Department at the University of British Columbia. Since 1992 Dr. Trites has served as Director of the Marine Mammal Research Unit and Research Coordinator for the North Pacific Universities Marine Mammal Research Consortium. From 1990 to 1992 he was NSERC Post-Doctoral Fellow, Fisheries & Oceans Canada, Pacific Biological Station in Nanaimo, B. C. From 1982 to 1992 he worked as a private consultant.

The North Pacific Universities Marine Mammal Research Consortium was formed by a broad-based coalition of North Pacific fishing industry groups in 1992. The industry groups joined forces to fund an independent research effort whose immediate priority was to piece together the Steller sea lion puzzle. The consortium was formed with four participating institutions: The University of Alaska, The University of British Columbia, the University of Washington and Oregon State University. The mission of the Consortium is to undertake a long term program of research on the relation between fisheries and marine mammals in the North Pacific Ocean and Eastern Bering Sea. Studies focus initially on the biology of the Steller sea lion and could include research on the effects of species interactions and oceanographic conditions on changes in sea lion abundance. The scope of the Consortium could subsequently be broadened to include other marine mammals and possibly sea birds.

Dr. Trites resides in Vancouver, B. C. is married and has two children.

The North Pacific Universities Marine Mammal Research Consortium

Major changes have taken place in the population dynamics of marine life in the North Pacific. Stocks of crab and herring have declined, while pollock and salmon populations have increased dramatically. At the same time, some marine mammals have flourished while others have declined.

Nowhere are the changes more evident than in the Gulf of Alaska and Bering Sea, where the Steller sea lion population has undergone a dramatic - and mysterious - decline over the past two decades.

No one knows why Steller sea lions are declining in the North Pacific. But many have speculated that commercial fishing may be to blame. As a result, the National Marine Fisheries Service (NMFS) has placed some restrictions on commercial fishing in the Bering Sea and the Gulf of Alaska. Unfortunately for the fishing industry, many of the fishing restrictions have been implemented without sufficient data or the funding for the research that would provide complete data on the possible effects that fishing might have had on Steller sea lions.

Research: An Urgent Priority

Both the fishing industry and regulators know that resource management decisions should be steered by credible scientific data, not speculation and emotion. For this reason, a broad-based coalition of North Pacific fishing industry groups joined forces to fund an independent research effort. The immediate priority is to piece together the Steller sea lion puzzle.

The North Pacific Universities Marine

Mammal Research Consortium is spearheading the industry sponsored research program. It is a multi-disciplinary team of scientists from the Universities

of Alaska, British Columbia, and Washington, as well as Oregon State University. The team is studying the biology, feeding ecology and developmental phases of Steller sea lions. They are working to understand the factors affecting sea lion survival and the relationship between commercial fishing and marine mammals in the North Pacific. With time, the scope of research will be broadened to include other marine mammals such as harbor seals and whales.

Disappearing Sea Lions

Steller sea lions are declining and have fallen by over 65% since 1980. Once numbering about 225,000; fewer than 85,000 remain in Alaska today. In 1990, Steller sea lions were listed as a *threatened* species under the U.S. Endangered Species Act. Consideration is now being given to changing the classification to *endangered*. Such an action will likely have major ramifications for all sectors of the fishing industry.

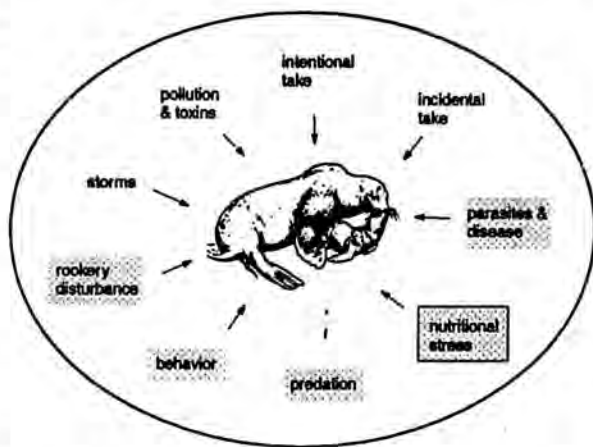
Why Steller sea lions have declined in Alaska remains unresolved. Possible causes are shown in the above diagram. Of the leading hypotheses

(shaded boxes), most of the Consortium's attention is focussed on nutritional stress which could be caused by competition with other species for food, or by natural and/or human induced changes in the ecosystem. For the most part, data to assess each of the possibilities is currently limited.

In the spring of 1993, the Consortium began a 5-year program to conduct research on Steller sea lions that builds on the work carried out by the National Marine Fisheries Service, the Alaska

Department of Fish and Game (ADF&G), and Fisheries and Oceans, Canada. It combines the skills and talents of university scientists and is designed to complement ongoing research.

The research program contains three



components: field studies, captive studies, and laboratory and data analysis.

The essence of the field program is a comparison of a healthy sea lion rookery in Southeast Alaska with a declining rookery near Kodiak Island; and is being done in collaboration with the ADF&G.

Captive studies began with the capture of 6 Steller sea lion pups from a Canadian rookery, and held in research facilities

donated by the Vancouver Aquarium. The captive studies are providing data about nutritional requirements that cannot be established in the wild, and a means of testing and developing new

techniques for studying sea lions and their diet in the wild.

The third group of studies comprise analysis of historical data sets and development of new laboratory techniques for processing biological samples.

The research program is designed to address the leading hypotheses put forward to explain the decline of Steller sea lions in Alaska. In addition it also considers other aspects of the North Pacific ecosystem, including assessment of population abundance.



The research program is overseen by a Management Committee comprising representatives of universities, industry and government agencies. A Research Committee composed of research leaders at the various universities and government agencies is responsible for conducting the research and for reporting on progress to the Management Committee.

Commercial Fisheries

The Marine Mammal Protection Act was amended by Congress on April 30, 1994. Significant changes were made to the current regime governing marine mammals caught incidentally to commercial fishing. The amendments are not yet fully implemented, but should be in place by September 1995. Until then, the Interim Exemption to the prohibition on incidental take due to commercial fishing remains in effect.

The new law will require that all owners or operators of commercial vessels in all fisheries report incidental death or injury of marine mammals to NMFS on a postage paid form (currently being developed) within 48 hours after the end of each fishing trip. NMFS will also be required to assess the status of every population of marine mammals in U.S. waters. The review must describe the commercial fisheries that are likely to have contact with a particular stock, and estimate the number of animals that can be removed without interfering with its ability to reach or maintain optimum sustainable levels.

Within 90 days of enactment of the amendments, NMFS is required to publish a list of fisheries that interact with marine mammals. Each fishery will be categorized

by its rate of incidental mortality or serious injury to marine mammals as frequent, occasional or unlikely. Vessels in the first two categories will register with NMFS and receive a decal that must be displayed. NMFS can permit the taking of endangered and threatened species for 3-year periods provided that it has a negligible impact on the stock and that a recovery plan has been or is being developed for the species.

The amendments allow persons to prevent marine mammals from damaging private or public property, or from endangering personal safety, as long as the animal is not killed or injured.

However, the amendments prohibit intentionally killing or injuring a marine mammal. Acceptable and non-acceptable deterrence methods should be published by NMFS later this year. In addition, the 1994 amendments reaffirms the zero mortality rate goal caused by incidental takes and specifies that all fisheries must attain the goal within 7 years.

1994 Census

Results of this summer's Steller sea lion census were recently released by NMFS and ADF&G. They paint a rather dismal

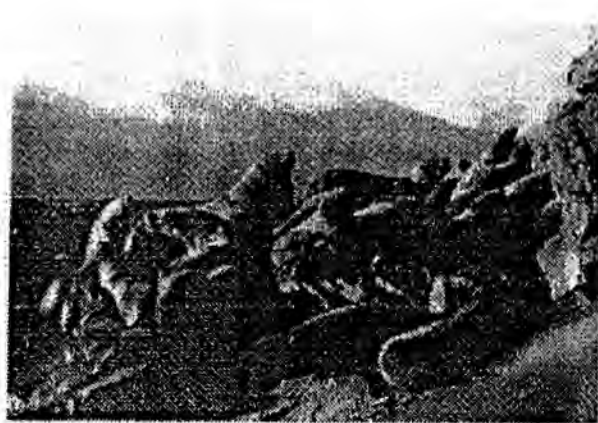
picture. Pup numbers declined in all regions of Alaska, with the sharpest drop (20%) in the central Aleutians (from 1991/92 to 1993/94). Counts of adults and juveniles

are also down, dropping 5% per year since the last survey in 1992.

Of particular concern is an apparent decline in pup numbers in southeast Alaska, which until now was considered to

Our research program is designed to address the leading hypotheses put forward to explain the decline of Steller sea lions in Alaska

Changing the classification of Steller sea lions from *threatened* to *endangered* could have major ramifications for all sectors of the fishing industry



be healthy and increasing. However no decline was noted in numbers of juveniles and adults. It is not clear whether the decline that began in the Aleutians is moving southward.

You Can Help

Funding of \$300,000 per year for the Consortium's research program is provided by the North Pacific Marine Science Foundation, formed especially for the purpose. In 1994, tax deductible contributions to the Foundation came from a wide spectrum of donors representative of the industry.

Many members of the fishing industry have decided the time has come for them to take action if their industry is to survive. They urge you to also become involved by encouraging you and your associations to pledge financial support so that incomplete scientific data does not undermine the future of the North Pacific fisheries. Contributions can be sent to:

North Pacific Marine Science Foundation
c/o Farrell A. Born, CPA
2150 6th Ave North, Suite 202
Seattle, WA 98109

Additional information about the Foundation can be obtained from John Roos (206) 281-1667. For further information on the research program, call or write to Dr. A.W. Trites at the address below. We would be pleased to answer your questions or to send you more information.

The North Pacific Universities Marine Mammal Research Consortium
Fisheries Centre, University of British Columbia, Room 18,
6248 Biological Sciences Road, Vancouver, B.C. Canada V6T 1Z4

tel: (604) 822-8181; fax: (604) 822-8180; e-mail: consortium@bcu.ubc.ca

University of Alaska
University of British Columbia
University of Washington
Oregon State University

The North Pacific Universities Marine Mammal Research Consortium

ANNUAL REPORT
1993

THE UNIVERSITY OF ALASKA
THE UNIVERSITY OF BRITISH COLUMBIA
THE UNIVERSITY OF WASHINGTON
OREGON STATE UNIVERSITY



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THE PROBLEM

Over the past few decades, major changes have occurred in the abundance of seals, whales and seabirds breeding in the North Pacific. In Alaska, northern fur seals are now *depleted*, while Steller sea lions are *threatened*, and harbour seal numbers are greatly reduced. Similar declines have been reported in some seabird breeding colonies. In British Columbia, Steller sea lion numbers seem stable, but harbour seal populations have increased rapidly. Further south, striking increases are also being observed in the range and abundance of elephant seals and California sea lions.

Such large scale changes may be a natural phenomenon or may be causally connected with similar changes occurring concomitantly in a number of commercial fisheries. All told, they stand to impact the economic development of commercial fisheries throughout the North Pacific.

NORTH PACIFIC MARINE SCIENCE FOUNDATION

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Dr. Tom Smith	Fisheries and Oceans Canada
Dr. Alan Springer	University of Alaska
Dr. Andrew W. Trites	University of British Columbia

THE CONSORTIUM

In the summer of 1992, John Roos (Vice President of the Pacific Seafood Processors Association) writing on behalf of a group of representatives of the fishing industry, requested Pacific northwest universities to submit proposals for research concerning the decline in abundance of Steller sea lions in the Gulf of Alaska and the Bering Sea. From that request, the *North Pacific Universities Marine Mammal Research Consortium* was formed with four participating institutions: The University of Alaska, The University of British Columbia, The University of Washington, and Oregon State University.

The mission of the Consortium is *to undertake a long term program of research on the relation between fisheries and marine mammals in the North Pacific Ocean and Eastern Bering Sea. Studies will focus initially on the biology of the Steller sea lion and could include research on the effects of species interactions and oceanographic conditions on changes in sea lion abundance. The scope could subsequently be broadened to include other marine mammals and possibly sea birds.*

BACKGROUND

Why Steller sea lions have declined in Alaska remains unresolved. Possible causes are shown in Figure 1 and include increased incidence of parasites and disease, predation by killer whales, meteorological changes (i.e., frequency of storms), pollution and toxic substances, entanglement in marine debris, incidental and intentional take by man, nutritional stress through competition with man or other species for food, or nutritional stress caused by natural and/or human-induced changes in the abundance, quality and distribution of prey. For the most part, data to assess each of the possibilities is currently limited.

In 1990, the Steller sea lion was listed as a *threatened* species under the *US Endangered Species Act*. A team appointed by the National Marine Fisheries Service developed a recovery plan in 1992 to review factors that may have affected the sea lion population and to identify actions needed to stop the decline and encourage population growth. Since then, the National Marine Fisheries Service has initiated a status review of Steller sea lions to determine whether a change in classification from *threatened* to *endangered* is warranted (November 1993).

Funding of \$300,000 per year for the research program of the Consortium is provided by the North Pacific Marine Science Foundation, formed especially for the purpose. Contributions to the Foundation have come from a wide spectrum of donors representative of the industry.

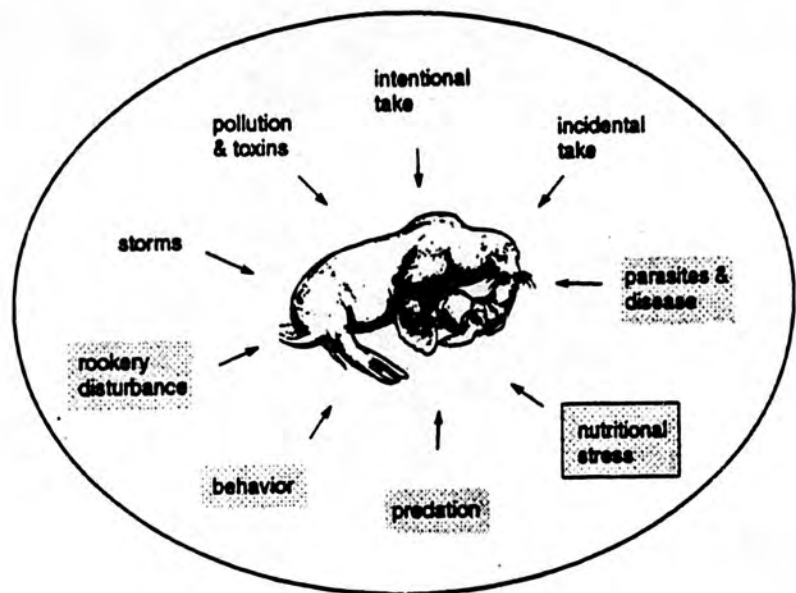
The research program is overseen by a Management Committee comprising representatives of universities, industry and government agencies. A Research Committee composed of research leaders at the various universities and government agencies is responsible for preparing a proposal for research each year and for reporting on progress to the Management Committee.

The Consortium is aided greatly in its work by the guidance and assistance provided by the United States National Marine Fisheries Service, the Alaska Department of Fish and Game, and Fisheries and Oceans Canada.

The first four months of the Consortium's work (September 1 to December 31, 1992) was devoted primarily to developing a research program for 1993. This report

concerns the accomplishments of that first full year of operation and briefly sketches the work proposed for 1994.

Figure 1



Future contributions of the Consortium will lead to a better understanding of the population biology of the Steller sea lion and, in due course, to other marine mammals of the North Pacific. The interactions of fisheries and marine mammals are the subject of intensive research in many parts of the world. They will be a major focus of research in the North Pacific for many years to come. The Consortium brings university resources to help to resolve the issues that arise.

The Marine Mammal Research Unit of the Fisheries Centre at the University of British Columbia administers the Consortium. Core staff of the Consortium consists of an overseer (Dr. P. A. Larkin), a research coordinator (Dr. A. W. Trites) and a part-time administrative manager (P. Rosenbaum).

THE FIVE YEAR RESEARCH PLAN

In January 1993, the Consortium developed a five year research plan to study marine mammal/fishery interactions in the North Pacific: most notably, the effects of commercial fisheries, species interactions and oceanographic conditions on changes in sea lion abundance. The program contains three components: (1) field studies, (2) captive studies, and (3) data analysis and laboratory studies. The essence of the field studies is comparison of a healthy sea lion rookery and a declining rookery at Forrester Island and Sugarloaf Island respectively (Figure 2). Captive studies on Steller sea lions held at the Vancouver Public Aquarium are providing data about nutritional requirements that cannot be established in the wild, and a means of testing and developing new techniques for studying sea lions in the wild. Analysis of historical data sets and development of new laboratory techniques for processing biological samples comprise the third group of studies.

The studies are a balance of short term and long term projects designed to help test the various hypotheses put forward to explain the decline of Steller sea lions (Figure 1). The studies are integrated and draw on the expertise and talents of university-based physiologists, ecologists, marine mammalogists, fisheries specialists and oceanographers. Only a concerted effort and a commitment to long term research will determine the causes of changes in the North Pacific and Bering Sea ecosystems in general, and of abundance of marine mammals in particular. Solutions are not likely to come quickly and will need a sustained effort. Our five year research plan contributes to this end.

Figure 2



RESEARCH UNDERTAKEN

Census techniques

A study at the University of British Columbia by Drs. R.G. Gosine, L. Gamage, and A.W. Trites considered alternative technology for aerial counting based on video filming and digitized still photographs. Computer algorithms were developed to discriminate sea lions from background image information. An algorithm for tracking sea lions between successive image frames was also developed and tested on a limited number of scenes from the 1992 Aleutian Islands survey conducted by the National Marine Fisheries Service.

Computer counts were made from typical image sequences for a range of terrains (e.g., sandy beach, rocky haulout) and compared to manual sea lion counts from slides. The study showed that the computer accurately counted single sea lions but was unable to correctly count the number of sea lions lying on top of each other. Further work is needed to overcome this problem. Further development of color analysis is also needed.

Computer counts are extremely fast and consistent. A computer-assisted census count (where the computer queries an operator when it cannot distinguish an object) might improve the accuracy and speed of counts from aerial photographs or video tape.

A statistical study at the University of Washington, directed by S. Mathews, examined possible sources of error in the estimation of populations of Steller sea lions from photographic surveys. Using data provided by the National Marine Fisheries Service, the study found no significant biases in the population estimates.

Predation by Killer Whales

The stomach of a dead killer whale that washed ashore in Prince William Sound in 1992 contained 14 flipper tags from Steller sea lions. Predation on sea lions has also been noted from stomach contents of stranded killer whales from other parts of Alaska and British Columbia. Killer whales have been observed attacking sea lions. In view of these observations, we began a study to ask: (1) to what extent does killer whale predation affect sea lion numbers, and (2) has this predation contributed significantly to the recent decline of sea lions in Alaska?

Dr. John Ford and Mr. Lance Barrett-Lennard are using photographic data to estimate numbers and distribution of transient killer whales frequenting nearshore waters from southeastern Alaska to the western Aleutians. Published and unpublished accounts of killer whale stomach contents and observations of predation are being used to estimate predation rates on sea lions of various ages. To obtain additional information about predation rates, questionnaires were distributed to fish and wildlife personnel and to researchers working on sea lions, killer whales, and other marine mammals. The energetic requirements of captive killer whales will be used to determine typical feeding rates. An attempt will be made to model possible minimum and maximum killer whale predation. When completed, the study will provide the first estimates of potential impact of killer whales on Steller sea lion populations.

Human Disturbance and Behavioral Changes

Steller sea lions are easily scared from their rookeries and haulout sites. While animals commonly return after having been disturbed, the effect of prolonged disturbances is not known. Efforts to capture and study Steller sea lions in the wild might be, therefore, a contributing factor to the population decline.

To determine the effect of human disturbance, we began a collaborative study with the Alaska Department of Fish and Game at two sites on Forrester Island, one of which was disturbed on three occasions (by researchers studying pup energetics), and the other which people did not enter.

Preliminary results suggest that disturbances early in the breeding season have little effect, but after the third disturbance late in the season females left with their pups and did not return. It is not clear what the effect might be in following years.

These studies will be continued in 1994 when adults will be driven again from the rookery on three occasions (at two week intervals).

In 1993 we also began to establish protocols for behavioral observations. Behavioral observations in 1994 will contrast reproductive behavior of Steller sea lions at two sites: Forrester Island, where sea lion abundance has been stable or increasing, and at Sugarloaf Island, where sea lion numbers are in decline. Field support and assistance is being provided by the Alaska Department of Fish and Game. The behavioral observations are also designed to test for signs of nutritional stress and to detect aberrant behavior at various densities.

Disease and Parasites

The role of parasites and infectious diseases in the biology of Steller sea lion populations has yet to be evaluated adequately. It is known that disease can affect health, reproductive capacity, and contributes to mortality, but the impact on population dynamics is not clear.

A preliminary study to identify and quantify the presence of parasites from examination of sea lion scats (faeces) collected in Southeast Alaska commenced in 1993. In 1994, researchers at the University of British Columbia will continue to evaluate parasite loads from Southeast Alaska and will begin the same analysis on scats collected at Sugarloaf Island.

Dr. A. Smith at Oregon State University proposed a five year research program to determine whether disease is causing or contributing to the population decline of Steller sea lions. His laboratory has experience with two classes of pathogens known to infect Steller sea lions, *Leptospira interrogans* and a series of caliciviruses known collectively as San Miguel sea lion virus. Both agents are active in marine mammal and other mammal populations, where they are associated with abortion and neonatal death. This study will begin when funds are available.



Nutritional Stress

D. Calkins and E. Goodwin of the Alaska Department of Fish and Game concluded that Steller sea lions were physically smaller in the mid 1980s than the mid 1970s, a conclusion supported by body measurements of sea lions caught in trawls. Both findings suggested that sea lions may have had inadequate nutrition during the 1980s. Simulation studies by the National Marine Fisheries Service (A. York) further suggest that young sea lions may have had a higher incidence of mortality. These and other findings have led to the hypothesis that a shortage of food during the winter may cause pups to die of starvation or other problems associated with food stress.

This hypothesis has received major attention by government agencies as well as by Consortium researchers. Our approach is four fold: (1) verify changes in body size; (2) determine energy requirements; (3) examine how diet may have changed between sites and over time; and (4) determine whether the forage base has changed with time and, if so, explore whether the change is related to fisheries and/or natural changes in the ecosystem.

Verifying Changes in Body Size

Existing morphometric data are currently being re-analyzed by the Alaska Department of Fish and Game. We are attempting to collect additional data from sea lions taken in the subsistence harvest in a project coordinated by Dr. A. Springer of the University of Alaska. While few specimens were collected in 1993, more are expected as contacts grow in the hunting community.

Another approach to determining how conditions may have changed from previous decades is to measure the annuli of sea lion teeth. Dr. D. Sampson from Oregon State University has proposed such a study. Growth records embedded in the teeth of Steller sea lions would be quantified between sites and over time to test whether a significant change occurred in growth rates, and age of sexual maturity. This study will begin as soon as funding is obtained.

Changes in growth also may be shown in bones in the form of "Harris lines" which appear when young animals are stressed and bone growth slows or ceases. Dr. Springer has proposed a pilot study of the utility of Harris lines in 1994.

Determining Energy Requirements

In 1993, three male and two female Steller sea lion pups were taken from a Canadian rookery and transferred to the Vancouver Public Aquarium. Plans to capture an additional six to ten pups in 1994 are currently on hold because additional funding from outside agencies and foundations has not yet been secured.



Over the next four years the captive animals will be used to determine (1) metabolic rates; (2) nutritional levels for required energy turnover rates; (3) digestive efficiency of different diets such as pollock and herring; (4) their relationship with growth, body composition, blubber thickness, fat distribution, organ maturation level and reproductive maturation (using ultrasound technology); and (5) biases in the use of sea lion scats to determine diet in the wild. Subsequently, a mathematical model will be developed that considers seasonal and annual activity budgets for sea lions at both individual and population levels.

Although the first year of this project was intended to serve as a "shakedown" period, substantial progress was made in 1993. Modifications to the Vancouver Public Aquarium were completed to accommodate the pups, and growth and body morphology has been monitored on an ongoing basis (pups are weighed and measured daily; blood chemistry is done once every two weeks, the autumn moult is being documented to determine the best time to attach recording instruments to animals in the wild). To assess energetic needs, we have acquired a flow-through respirometry system and have built a basic metabolism chamber to use with it. The system has been on-line and collecting data since early October.

Examining Changes in Diet and Foraging Success

Dr. A. Springer of the University of Alaska enlisted the aid of native subsistence hunters to acquire specimens from St. Paul Island (Pribilof Islands) for diet studies. Samples from two juveniles taken by hunters and three beach-cast adults were obtained. Additional samples from several more specimens taken by hunters are awaiting shipment from St. Paul to Fairbanks. In addition, the Aleutian East Borough is assisting in contacts with hunters from Akutan, Nikolski and other villages.

A collaborative study was undertaken with Alaska Department of Fish and Game to collect scats on Forrester Island. Approximately 200 samples were taken at Forrester, and an additional 200 from four other haulout sites in Southeast Alaska. The scats are currently being processed at

Fisheries and Oceans Canada facilities to determine parasite loads and diet (based on identifying bony prey structures). Bones will be identified by Pacific ID in Victoria. Raw data sheets will be distributed to Alaska Department of Fish and Game and National Marine Fisheries Service. A report summarizing findings is planned for the spring.

In 1994 we will continue collecting scats from Forrester Island and will begin a concerted effort to describe the diet of sea lions at Sugarloaf in the eastern Gulf of Alaska where major population declines have occurred.

There are many hidden biases in determining diet from scats. For example, otoliths are easily identified by species but for some species may be partially or even totally digested. Dr. A. W. Trites and P. Cottrell began a study on harbour seals held at the Vancouver Public Aquarium and will do a similar study in 1994 on captive Steller sea lions once they are weaned.

Over 4,000 fish were consumed during the experimental period, from which over 50,000 elements (hard parts) were recovered. Only 53% of otoliths were recovered from consumed prey (34% from herring, 64% from chinook smolts, 74% from pollock, 67% from hake, and 26% from smelt). Other structures (such as vertebrae in herring) appeared more consistently in scats. Correction indices based on contingency analysis of different prey structures can be calculated for species that are consumed whole (herring and smelt). Greater biases exist for larger fish whose heads are ripped off and not eaten (pollock, salmon and hake).

A novel study to determine whether the decline of Steller sea lions is related to a shift in diet was proposed by Dr. D. Shell at the University of Alaska. In a pilot study in 1993, the ratio of carbon and nitrogen isotopes was measured in whiskers from Steller sea lions collected over the past 20 to 40 years to determine whether long-term shifts occurred in food sources and in trophic levels at which Steller sea lions fed. An identified shift would support the hypothesis that changes in diet may have played an important role in the recent population declines. This study will continue through 1994.

Studying the feeding behavior of pups and lactating females might reveal whether Steller sea lions are food stressed in the eastern and western Gulf of Alaska. First steps were taken in 1993 for a comparative study of the foraging biology and behavioral ecology of juveniles and adult females in both the eastern Gulf of Alaska (Sugarloaf Island), and in southeastern Alaska (Forrester Island) where no population decline has occurred.



At Forrester Island, protocols were developed for making behavioral observations. The Alaska Department of Fish and Game erected a cabin and field station on the island. With their leadership a second field camp will be set up at Sugarloaf in 1994. A biologist from the Consortium and from the Alaska Department of Fish and Game will be paired on each of the two study sites in 1994 and 1995. The study will measure the time that pups, cows and bulls rest while ashore, male investment (size of territories, length of bull's tenure, number of copulations), and maternal investment (number of suckling juveniles, time spent nursing pups, length and start of mother's first feeding trip, sex ratio of pups born).

A second study is proposed on juvenile winter behavior to determine whether mothers can adequately nourish their pups during lactation and/or whether weaned juveniles are able to successfully forage on their own. The Alaska Department of Fish and Game plans to deploy satellite tags on juveniles in October and November, 1994, and have indicated that they will provide logistical support and financial assistance to a graduate student. We anticipate that the work will involve at-sea tracking of juveniles and "on-shore" monitoring of daily and seasonal changes in juvenile abundance at Cape St. Elias (located east of Prince William Sound on the southern tip of Kayak Island).

In 1993 we developed and field tested a portable data logger for attachment to Steller sea lions to record location, diving depth, swim speed, and changes in stomach temperature (an index of feeding activity). Backpack-data loggers and stomach temperature telemeters were tested on captive California sea lions and proved capable of recording when and how much prey were ingested. At Forrester Island, three female Steller sea lions were equipped with data loggers and temperature sensors. One of the three made a feeding trip on which four dramatic drops in stomach temperature were recorded, indicating prey ingestion events. Although further field trials are needed, the system has provided the first conclusive record of foraging by a wild sea lion, a significant breakthrough in determining where and when sea lions feed.

The capabilities of the data loggers are being expanded to include heart rate and stomach pH measurements (indices of metabolic rate and prey type, respectively). Testing of the devices and heart rate units will be done by R. Andrews (University of British Columbia) on captive California sea lions held in Santa Cruz and on captive juvenile Steller sea lions in Vancouver. The 1994 research plan calls for studies of the foraging behavior and energetics of adult female Steller sea lions with young pups in the summer; and of females and pups near the time of weaning in winter. We will collaborate with D. Calkins of the Alaska Department of

Fish and Game and researchers from the University of Alaska, and Texas A&M University to deploy the electronic devices on five sea lions at Forrester Island in the summer and five adults and five juveniles at Cape St. Elias in the winter. Data concerning development of independent foraging by juveniles in winter will be relayed by satellite and radio transmission.

Changes in the Forage Base

The University of Alaska and the University of Washington are jointly preparing a proposal to sample and determine abundance of forage fish near the two primary field sites. At the same time, a project will try to establish what fishing activity occurred around sea lion rookeries, and how much fish was removed over the past decade.

Population trends of sea lions at different rookeries differ perhaps because of different levels of disturbance from nearby fishing operations or different histories of local prey abundance. In 1993 a study was begun by Dr. D. Sampson at Oregon State University to test these conjectures by analyzing historical and current fishing activities near selected sea lion rookeries.

The first part of the study involved compiling and analyzing data on catch and fishing effort from commercial fisheries operating near sea lion rookeries during the 1970s and 1980s. Previous analyses of commercial fisheries data have focussed on removals of groundfish, particularly pollock, or have looked at coarsely aggregated catch and effort data for various fisheries. This project concentrates on cumulative and seasonal levels of fishing effort and relative catch rates at different sites for as many different fisheries as possible. Analyses have started with data provided by the National Marine Fisheries Service on the quarterly catch and effort data from the observers, since 1979, on foreign, joint-venture, and domestic groundfish vessels. Fish ticket data (landings receipts) are being obtained from the Alaska Department of Fish and Game to document monthly landings and number of fishing trips by statistical area for domestic fisheries for groundfish, salmon, herring, halibut, shrimp, and crab. The data compilation, tabulation, and preliminary analyses of these two data sets will be completed by March 1994 with additional analyses completed during the remainder of 1994.

The second part of this study will compile and analyze information from commercial fishing operations near the primary field sites (Forrester and Kodiak regions). Although protected areas have been established around sea lion rookeries and major haulouts west of 140° west longitude to limit disturbances by the groundfish fishery,



other fisheries such as those for herring and salmon still operate near these sites. At the end of each field season, data from the Alaskan fish tickets on the landings and number of fishing trips will be compiled and examined to document differences in the amount of nearby fishing activity and, possibly, the relative levels of local prey abundance.

Another possible explanation for the decline of Steller sea lions is that an ecosystem shift changed the food base in the North Pacific in the mid 1970s. One hypothesis, for example, is that mass removals of whales from the North Pacific in recent times contributed to ecosystem change and declines in the abundance of pinnipeds and seabirds. The International Whaling Commission reports that between 1950 and 1975 over 45,000 fin whales were harvested in the North Pacific. "Best guess" estimates indicate the population fell some 90% from a pre-exploitation level of about 50,000 whales to under 5,000. Approximately 75% of the harvest came from the Gulf of Alaska, Bering Sea, and Kamchatka Peninsula area. The harvest was concentrated on feeding grounds at the edge of the continental shelf in the Gulf of Alaska and Bering Sea and along the Aleutian Archipelago where the whales fed on large calanoid copepods, euphausiids, and small schooling fishes such as juvenile pollock. Removal of these whales may have changed the composition and abundance of forage fish available to the Steller sea lion and other marine mammals by reducing predation on young pollock and increasing the amount of euphausiids and copepods available to other fish species.

Dr. A. Springer (University of Alaska) has begun a thorough analysis of whaling records and models of whale consumption and population dynamics to test the notion that whaling was a contributing cause of recent changes in the Bering Sea. In 1994 information on harvest using the detailed records of the International Whaling Commission, obtained from National Marine Fisheries Service, will be refined. Population estimates for fin and sei whales will be derived from a mathematical model. Carbon budget and food web models, with appropriate spatial scales, will then be developed to evaluate possible effect of the removals on the pelagic ecosystem.

Acknowledgements

The Consortium has been greatly aided in its work by the guidance and assistance provided by the US National Marine Fisheries Service, the Alaska Department of Fish and Game, and Fisheries and Oceans Canada. We are particularly grateful for the field support provided by the Alaska Department of Fish and Game and for the assistance of Fisheries and Oceans Canada in capturing the Steller sea lion pups for captive studies.

We extend our thanks to the Vancouver Public Aquarium and its staff who provided us with research space and expertise in training and caring for the pups. As well, we thank the subsistence hunters from the Pribilof Islands and Aleutians East Borough for collecting and providing scientific data from subsistence hunts.

We are also grateful to the members of the Research and Management Committees for the many hours they have spent preparing, reviewing and molding the Consortium's research plans.

Finally, we wish to thank our many and varied donors for their support and interest.

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Funding received to date

1992	\$32,000
1993	\$290,056

SCOMM

99:8

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

HB 83
Relating to state implementation of federal statutes
Consolidated Fiscal Note for Executive Branch

Operating Expenditures (Thousands of Dollars)

Department	FY 96	FY 97	FY 98	FY 99	FY 2000	FY 2001
Governor	0.0	0.0	0.0	0.0	0.0	0.0
Administration	0.0	0.0	0.0	0.0	0.0	0.0
DCED	0.0	0.0	0.0	0.0	0.0	0.0
DCRA	47.5	28.1	28.9	29.7	30.5	31.3
Corrections	0.0	0.0	0.0	0.0	0.0	0.0
Education	0.0	0.0	0.0	0.0	0.0	0.0
DEC	0.0	0.0	0.0	0.0	0.0	0.0
ADF&G	50.0	25.5	12.8	12.8	12.8	12.8
DH&SS	288.4	89.3	92.3	95.4	98.7	102.0
Labor	0.0	0.0	0.0	0.0	0.0	0.0
Law	150.0	0.0	0.0	0.0	0.0	0.0
DMVA	0.0	0.0	0.0	0.0	0.0	0.0
DNR	0.0	0.0	0.0	0.0	0.0	0.0
Public Safety	6.0	4.0	4.0	4.0	4.0	4.0
DOR	105.0	8.0	8.0	8.0	8.0	8.0
DOT&PF	50.0	22.5	22.5	22.5	22.5	22.5
TOTAL	696.9	177.4	168.5	172.4	176.5	180.6

OMB
1/27/95

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSIONBILL NO. HB 83

Revision Date: _____

Title: "An Act relating to state implementation of federal statutes."Sponsor: Representatives Ogan, Porter

Requestor: _____

Department Affected: Office of the GovernorBRU: All BRUsComponent: All Components

COMPONENT SERIAL NO. _____

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
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CHANGE IN						
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FUND SOURCE

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY95) cost: _____

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact

Prepared by: Michael A. Nizich, DirectorDivision: Division of Administrative ServicesPhone: 465-3876Date: 1/26/95Approved by Commissioner: Jim Averis, Chief of StaffAgency: Office of the GovernorDate: 1/26/95

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 83

Revision Date: _____
Title: "An Act relating to state implementation of federal statutes."
Sponsor: Ogan
Requestor: (H) Special Com. on World Trade

Department Affected: Administration
BRU: Various
Component: Various

COMPONENT SERIAL NO. _____

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 95) cost: \$ none

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Sharon Barton, Director
Division: Administrative Services

Phone: 465-2277
Date: _____

Approved by Commissioner: Mark Boyer
Agency: Department of Administration

Date: 1/25/95

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FISCAL NOTE

STATE OF ALASKA

BILL NO. HB 83

1995 LEGISLATIVE SESSION

Revision Date: January 26, 1995

Department: Commerce and Economic Development

Title: An Act relating to state implementation of federal statutes.

BRU: Administrative Services

Sponsor: OGAN, Porter

Component: Administrative Services

Requestor: _____

COMPONENT SERIAL NO. 1028

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 95) cost: \$ 0.0

POSITIONS

FULL-TIME					
PART-TIME					
TEMPORARY					

ANALYSIS: (Attach a separate page if necessary)

There will be no fiscal impact to this agency.

Prepared by: Guy Bell, Director
Division: Division of Administrative Services
Approved by Commissioner: William L. Hensley
Agency: Commerce and Economic Development

Phone: 465-2505
Date: January 26, 1995
Date: 1/26/95

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

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FISCAL NOTE

Revision Date: January 25, 1995 Dept. Affected: Community & Regional Affairs
Title: An Act relating to state implementation of federal statutes BRU: Admin. & Support
Sponsor: Representative Ogan Component Admin. Services
Requestor: House Spec. Comm. on World Trade COMPONENT SERIAL NO. 684

Expenditures/Revenues:		(Thousands of Dollars)				
OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	43.5	26.8	27.6	28.4	29.2	30.0
TRAVEL						
CONTRACTUAL	2.0	1.0	1.0	1.0	1.0	1.0
SUPPLIES	0.5	0.3	0.3	0.3	0.3	0.3
EQUIPMENT	1.5					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	47.5	28.1	28.9	29.7	30.5	31.3
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0

REVENUE FUND SOURCE:

FUNDING:		(Thousands of Dollars)				
1002 Federal Receipts						
1003 GF Match						
1004 GF	47.5	28.1	28.9	29.7	30.5	31.3
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	47.5	28.1	28.9	29.7	30.5	31.3

POSITIONS:						
FULL-TIME	1	0	0	0	0	0
PART-TIME		1	1	1	1	1
TEMPORARY						

Estimate of current (FY95) impact \$ none

ANALYSIS: (Attach a separate page if necessary)
One permanent full time Internal Auditor II, range 17, position is needed for 9.6 months for FY 96. Thereafter, the position will be needed part-time. Federal programs within DCRA include National Forest Receipts, FEMA, Child Care Block Grants, Head Start State Collaboration, Job Training Partnership Act, Community Block Grants, Rural Development Mini-Grant Program, Corporation for National and Community Service (AmeriCorps), Rural Development Council, Institutional Conservation Program, Federal Biomass Program, and the Alaska Coastal Zone Management Program.

Prepared by: Remond Henderson, Director *Remond Henderson* Phone: 465-4708
Division: Division of Administrative Services Date: 1/25/95
Approved by Commissioner: *Mike Brown* Date: 1/25/95
Agency: Community & Regional Affairs

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 83

Revision Date: _____ Dept. Affected: Corrections
 Title: An Act relating to state implementation of federal BRU: all
 statutes _____ Component: all
 Sponsor: Rep. Ogan, Rep. Porter
 Requester: Rep. Ogan **COMPONENT SERIAL NO.** _____

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill would require each commissioner and agency head to review the programs under its purview in order to determine the effects, if any, that exist as a result of federal mandates. It further provides a reporting protocol for the results of this review

No federal mandates directly impact programs currently operated by DOC. Certain federal grants for which DOC could apply would be conditioned upon the existance of specific conditions with in the State. For example some would require laws requiring certain classes of offenders to serve a minimum of 85% of their sentence. These do not seem to be mandates in the sense contemplated in this bill, however.

Prepared by: Jerry Shriner
 Division: Comm. Office
 Approved by Commissioner: Margaret M. Pugh
 Agency: Department of Corrections

Phone: 465-5582
 Date: 1/19/95
 Date: 1-23-95

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 83

Revision Date:

Dent. Affected:

Title:

An Act relating to state implementation of federal statutes.

BRU:

Alaska Commission on Postsecondary Education

Component:

ACPE
Program Administration

Sponsor:

Representative Ogan

COMPONENT SERIAL NO.

0212

Requester:

Representative Ogan

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$

-0-

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Zero (0) fiscal impact.

Prepared by:

Dr. Joe L. McCormick, Executive Director

Division:

Alaska Commission on Postsecondary Education

Phone: (907)465-6740

Date: 1-20-95

Approved by Commissioner:

Date:

Agency:

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO.

HB 83

Revision Date:

Title: An act relating to state implementation
of federal statutes

Department Affected:

Environmental
Conservation

Sponsor: Ogan, Porter

BRU: Administration

Requestor: Governor

Component: Commissioner's Office

COMPONENT SERIAL NO.

633

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
----------------------	-----	-----	-----	-----	-----	-----

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
------------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipt	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Dan Kanouse

Phone: 465-5010

Division: Information and Administrative Services

Date: 1/23/95

Approved by Commissioner: [Signature]

Agency: Department of Environmental Conservation

Date: 1/27/95

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House Bill 83
Fiscal Note Analysis

Federal statutes and regulations have a major impact on the Department of Fish and Game. The department receives nearly \$30 million a year in federal funds for various programs, primarily from the federal aid programs for sport fishing and wildlife, and to partially offset costs to Alaska associated with the Pacific Salmon Treaty.

The large federal land holdings in Alaska also entail significant consequences for the management of Alaska's fish and wildlife. For example, restrictions on hunting and fishing activities within National Wildlife Refuges and National Parks concentrate effort onto the remaining state lands. A good example is the intention of the United States Park Service to ban subsistence hunting and fishing and commercial fishing within the waters of the Glacier Bay National Park.

Finally, the department is subject to federal statutes and regulations concerning due process and procedures, as are other agencies.

In order to carefully assess these federal mandates and their bearing on state costs and policies, the department will require a research analyst II. This position will be full-time the first year, half-time the second year, and quarterly thereafter. It would be established as an exempt position.

This position will work under the supervision of a deputy commissioner. It will be responsible for working with all divisions to identify relevant federal statutes, regulations and policies; analyze the impact of these for consistency with state statutes, regulations, and policies; analyze the federal measures for their impact on the cost of managing Alaska's fish and wildlife; and prepare a report for submission to the legislature.

A partial list of federal statutes, regulations, and policies that would need to be examined follows.

Federal Aid in Wildlife Restoration Act, Federal Aid in Sport Fish Restoration Act, Alaska National Interest Lands Conservation Act, Marine Mammal Protection Act, Endangered Species Act, Airborne Hunting Act, Migratory Bird Treaty Act, Magnuson Fishery Conservation and Management Act, National Environmental Policy Act of 1969, Tongass Timber Reform Act, National Forest Management Act of 1976, National Forest System Land and Resource Planning Regulations, Federal Power Act, Consolidated Omnibus Budget Reconciliation Act, Family and Medical Leave Act of 1993, Immigration Reform and Control Act of 1986, Fair Labor Standards Act, Equal Pay Act of 1963, Americans with Disabilities Act, Occupational Safety and Health Act.

We have to be a player in both the North Pacific and Pacific Fishery Management Council activities to protect state interests. Development and implementation of various fishery management plans require staff involvement that is not compensated. Various associated federal laws, such as the Paper Work Reduction Act and the Environmental Protection Act increase the tasks that must be performed when adopting and amending FMPs.

There are a number of international fisheries treaties and organizations that require our involvement to protect the state's interests. US/Canada Pacific Salmon Treaty (including Yukon R. negotiations), North Pacific Anadromous Fisheries Commission, US/Russia Intergovernmental Consultative Committee on Fisheries, Convention on Conservation and Management of Police Resource of the Central Bering Sea, North Pacific Marine Sciences Organization (PICES), and International Pacific Halibut Commission.

Federal Drug Administration Laws. We get involved in testing fish drugs for approval for use in hatcheries. Without our participation, it is most likely the needed research would not be conducted.

Federal Land Use Laws. These include such laws as the Wilderness Act and ANILCA. We get involved in development and application of these laws to protect the state's interests. We are also directly affected when the laws effect our programs, such field camps and hatcheries.

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 83

Revision Date: 1/26/95 Dept. Affected: Fish and Game
 Title: State implementation of federal statutes BRU: Commercial Fisheries (Limited) Entry Commission
 Sponsor: Rep. Ogan Component: Limited Entry Program Administration
 Requester: Rep. Ogan COMPONENT SERIAL NO. 0471

Expenditures/Revenues		(Thousands of Dollars)				
OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE		(Thousands of Dollars)				
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

The CFEC is currently defending the state's interest in limited entry permits against action by the Internal Revenue Service (IRS) in USA v. George Gatter and the State of Alaska, Commercial Fisheries Entry Commission. The IRS is demanding a transfer of a limited entry permit before state transfer requirements have been approved.

Prepared By: Roger Kolden Phone: 789-6160
 Agency: Commercial Fisheries (Limited) Entry Commission Date: 1/26/95
 Approved by Commissioner: Frank Homan 
 Agency: Commercial Fisheries (Limited) Entry Commission Date: 1/26/95
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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 83

Revision Date: _____
Title: An Act relating to state implementation of
federal statutes.
Sponsor: Ogan, Porter
Requestor: H Sct

Dept. Affected: Health and Social Services
BRU: Administrative Services
Component: Commissioner's Office
COMPONENT SERIAL NO. 317
See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES	77.4	80.3	83.3	86.4	89.7	93.0
TRAVEL	5.0	5.0	5.0	5.0	5.0	5.0
CONTRACTUAL	200.0	3.0	3.0	3.0	3.0	3.0
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	5.0	0.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	288.4	89.3	92.3	95.4	98.7	102.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	288.4	89.3	92.3	95.4	98.7	102.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	288.4	89.3	92.3	95.4	98.7	102.0

POSITIONS:

FULL-TIME	1	1	1	1	1	1
PART-TIME						
TEMPORARY						

Estimate of any current year (FY95) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

A general scenario for implementation is that a Special Assistant will be required in the Commissioner's Office to coordinate the initial and on-going efforts related to this legislation. A contractor will be used for the initial review and implementation steps to avoid any additional state staffing; a Special Assistant in the Commissioner's Office will allow the avoidance of divisional biases in assessments, provide coordination among divisions, and assure consistency with departmental policy and direction.

An assumption is made that on-going efforts will be needed with respect to federal mandates despite current activity in Congress to reduce such phenomena. Position cost is assumed to grow at 3.75% per year. Support costs for the position will be held at the same level as FY96. Equipment costs are one-time costs for position support with no consideration for replacement. Future costs could be influenced by the extent of future federal mandates. Contractor costs are estimated at 25 weeks at \$200/hr.

Prepared by: Richard Renninger
Division: Administrative Services

Phone: 465-3331
Date: 01/24/95

Approved by Commissioner: Karen Perdue, Commissioner
Agency: Department of Health & Social Services

Date: 1-24-95

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 83

Revision Date: _____
 Title: "An Act relating to state implementation
of federal statutes."
 Sponsor: Representative Ogan
 Requestor: House Special Comm. on World Trade

Department Affected: Labor
 BRU: Commissioner's Office
 Component: Commissioner's Office

COMPONENT SERIAL NO. 340

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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CHANGE IN REVENUE						
FUND SOURCE #						

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY95) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)

The review process required by Sec. 37.40.010 formalizes ongoing program review that currently takes place in the department. The reporting requirements would be implemented with minimal impact on the department's operating budget.

Prepared by: Arbe Williams, Director Phone: 465-5981
 Division: Administrative Services Date: 1/24/95
 Approved by Commissioner: Tom Cashen, Commissioner
 Agency: Department of Labor Date: 1/24/95

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 83

Revision Date: _____ Dept. Affected: Department of Law
Title: "An Act relating to state implementation of federal statutes . . ." BRU: Legal Services
Component: Operations
Sponsor: Representative Ogan
Requester: Representative Ogan
COMPONENT SERIAL NO. 0093

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	150.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	150.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	150.0					
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	150.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

FULL-TIME	0.0					
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill requires commissioners or agency heads of departments and agencies that administer programs that implement federal statutes that impose mandated duties on the state, to review all federal statutes, regulations, guidelines, and policies pertaining to the programs and to identify those provisions that are inconsistent with state policy or are not cost effective. The commissioners and agency heads are to prepare reports setting out their conclusions, and making recommendations for changes in federal law to make programs consistent with state policy or more cost efficient. The reports are to be submitted to the governor, the house and senate judiciary committees, and the Legislative Budget and Audit Committee.

The bill also provides that commissioners and agency heads authorized to develop a state program to respond to mandates contained in federal statutes shall, with the assistance of the Department of Law, review the applicable federal statutes, regulations, guidelines, and policies to determine whether the federal government has exceeded its constitutional authority to impose mandates on the state. If it is determined that

Prepared by: Richard I. Pegues, Director
Division: Administrative Services Division
Approved by Commissioner: Bruce M. Botelho, Attorney General
Agency: Department of Law

Phone: 465-3672
Date: 1/24/95
Date: 1/24/95

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FISCAL NOTE

**STATE OF ALASKA
1995 LEGISLATIVE SESSION**

BILL NO. HB 83

ANALYSIS CONTINUATION:

the federal government may have exceeded its authority, a commissioner or agency head shall submit a written report to the governor and the house and senate judiciary committees setting out the basis for this determination.

The Department of Law will be extensively involved in determinations where federal mandates may have exceeded their constitutional authority. Initially, section supervisors and senior legal staff who are responsible for assisting the department's client agencies will provide a review of state-implemented, federally-mandated programs. This review will be under the supervision of the Deputy Attorney General for the civil division. The department will seek and employ expert outside counsel to conduct a second review of those federal mandates that the department believes may have exceeded the federal government's constitutional authority to impose on the state. Use of a constitutional law expert to make a second review, once the department's initial analysis has been completed, will be more efficient than hiring and training staff for this purpose. And it will insure that the high level of thoroughness required of an undertaking of this nature is provided.

FISCAL NOTE

STATE OF ALASKA

BILL NO. HB83 *

1995 LEGISLATIVE SESSION

Revision Date: Original

Dept Affected: Natural Resources

Title: An Act relating to state implementation
of federal statutes.

BRU: Management & Administration

Component: Commissioner's Office

Sponsor: Representatives Ogan, Porter

Requestor: _____

Component Serial No. 423

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ None

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS:

(Attach a separate page if necessary)

* This fiscal note is input to OMB for consolidation into a single fiscal note for the State of Alaska for both HB83 and HJR8.

Implementation of HB83 will require approximately two man-months of time for the Department of Natural Resources on an annual basis. The majority of this time will be spent in the Division of Mining & Water and the Division of Forestry. All Division's have indicated that the required tasks could be accomplished with existing staff and do not anticipate the need for additional staff at this time.

Prepared by: Nico Bus, Acting Legislative Liaison

Phone: 465-2406

Division: Commissioner's Office

Date: 24-Jan-95

Approved by Commissioner: _____

Date: 1/24/95

Agency: Natural Resources

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO: HB 83

Revision Date: _____ Dept. Affected: Public Safety
Title: An Act Relating to state implementation of BRU: Statewide
Federal Statutes Component: Administrative Services
Sponsor: Rep. Ogan
Requestor: House State Affairs COMPONENT SERIAL NO. 525

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	5.0	3.0	3.0	3.0	3.0	3.0
TRAVEL	1.0	1.0	1.0	1.0	1.0	1.0
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	6.0	4.0	4.0	4.0	4.0	4.0
CAPITAL EXPENDITURES	0	0	0	0	0	0
CHANGE IN REVENUES () Revenue Code	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL						

Estimate of current year (FY 95) impact: \$ 0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)
See attached

Prepared By: Ken Bischoff Phone: 465-4336
Division: Administrative Services Date: 1/24/95
Approved by Commissioner: Ronald L. Otte Date: 1/26/95
Agency: Ronald L. Otte, Dept. of Public Safety

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Department of Public Safety
Fiscal Note Analysis
HB 83
Page 2 of 2

The annual review will require a person to establish a format and timetable, seek field input, compile responses from all programs, review with the Commissioner's Office, draw conclusions, make recommendations and issue the report.

Time will be required for followup on those federal issues pending or needing change to review with the Department of Law and to answer questions made by the legislature during its review defined in Section 37.40.020.

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB83

Revision Date: 1/23/95
Title: Review of Federally Mandated programs

Dept. Affected: Revenue
BRU: CSED, AHFC Operations
Component: CSED, AHFC Operations

Sponsor: Ogan, Porter
Requester: _____

COMPONENT SERIAL NO. 111,110

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	105.0	8.0	8.0	8.0	8.0	8.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	105.0	8.0	8.0	8.0	8.0	8.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	33.0	3.3	3.3	3.3	3.3	3.3
1003 GF Match	17.0	1.7	1.7	1.7	1.7	1.7
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other	55.0	3.0	3.0	3.0	3.0	3.0
TOTAL	105.0	8.0	8.0	8.0	8.0	8.0

Estimate of any current year (FY95) cost: \$ _____

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

CSED: \$50.0 FY96, \$5.0 thereafter

A comprehensive review of all CSED's federal programs will be done in FY96 by CSED's assigned Assistant Attorney General or an outside contractor. Estimated costs for FY97 through FY01 would be for analysis of changes in mandated programs.

AHFC Operations: \$55.0 FY96, \$3.0 thereafter

A comprehensive review of all AHFC's federal programs will be done in FY96 by AHFC's assigned Assistant Attorney General. Estimated costs for FY97 through FY01 would be for analysis of changes in mandated programs.

Prepared by: Bob Baratko, Mary Sutton
Division: Administrative Services Division
Approved by: Deborah Vogt
Commissioner: Revenue
Agency: _____

Phone: 465-2312
Date: 1/23/95
Date: 1/23/95

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FISCAL NOTE

STATE OF ALASKA

BILL NO. HB 83

1995 LEGISLATIVE SESSION

Revision Date: 01/16/95

Dept. Affected: DOT&PF

Title: An Act relating to state implementation of federal statutes

BRU: Design & Construction, Maintenance & Operations

Component: Design & Construction

Sponsor: Ogan, Porter

Requester: Jack Kreinheder, OMB

COMPONENT SERIAL NO.

547

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	42.0	21.0	21.0	21.0	21.0	21.0
TRAVEL						
CONTRACTUAL	5.0					
SUPPLIES	3.0	1.5	1.5	1.5	1.5	1.5
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	50.0	22.5	22.5	22.5	22.5	22.5
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match						
1004 GF	50.0	22.5	22.5	22.5	22.5	22.5
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	50.0	22.5	22.5	22.5	22.5	22.5

Estimate of any current year (FY95) cost: \$

0.0

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: The Department's major emphasis in reviewing Federal Requirements would be with Federal Highway Administration and Federal Aviation Administration along with federal building related issues. Alaska DOT&PF's reviews would have to include but not be limited to the many and various requirements for such areas as: Clean Air, Clean Water, Wet Lands, Permitting, ADA, OSHA, EPA and the list goes on and on. As an example, attached is a listing of nineteen sanctions which can be applied to the Highway funding. The first rough estimate of the effort would be 4 months (175hr/mo) by a technical engineer, range 22 at cost of \$60/hr equals \$10,500/mo or \$42,000 for the first year plus some costs for supplies, \$3,000 and contract, \$5,000 which totals \$50,000. After the first year, it would be much easier and is estimated at only two months of effort plus some minor supplies.

Prepared by: Loren Rasmussen

Phone: 465-2960

Division: Engineering and Operations Standards

Date: 01/24/95

Approved by Commissioner: *Joseph L. Portino*

Date: 01/24/95

Agency: Department of Transportation & Public Facilities

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1993 DISCUSSION TOPIC
AASHTO-AGC-ARTBA JOINT COMMITTEE

Title: The Impacts of Sanctions and Mandates
on the Transportation Program
(Suggested by AASHTO)

Over the years the Congress has enacted a number of mandated requirements on the Federal-aid highway and transportation program. These mandates are sometimes related to requirements affecting the selection and award of contracts, as with Davis-Bacon and DBE-WBE requirements. Beyond these contractual requirements, Congress also may limit how funds are to be utilized. These mandates all act to control how the states administer the Federal-aid highway programs.

Beyond these mandates, Congress has also enacted a number of sanctions that can be applied to the Federal-aid highway and transportation programs, if the states do not implement a specific action or program mandated by the Congress. These sanctions inherently affect how the states administer the Federal-aid highway and transit programs, since unless the mandates involved are met to the satisfaction of the Federal government the sanctions will be imposed.

Attached is a listing of 19 current sanctions as compiled by the Federal Highway Administration, all of which require states to take specific actions if the sanction is to be avoided. States endeavor to avoid the imposition of all of these sanctions, and this effort has an impact on how the Federal-aid highway and transportation programs are carried out within the state. Many of these sanctions are long-standing, and relate with engineering issues, such as those relating to enforcement of vehicle size and weight, maintenance of the highway system, and required management systems. Others are operations related, such as those relating to speed limits.

In addition, there are sanctions established to encourage states to impose requirements on the driver and the vehicle, such as enforcement of the Federally-required commercial drivers license, minimum drinking age and drug offenders laws, and use of safety belts and motorcycle helmets. Other sanctions such as control of outdoor advertising and control of junkyards are established to persuade states to enact and enforce specific laws that are not truly transportation related. A concern of state highway and transportation departments about the sanctions discussed in this paragraph is that they often are not the responsible agency for implementing the actions on which the sanctions are based, and thus cannot control the situation.

Added to these are sanctions that affect the administration of the whole transportation program, such as those relating to Clean Air Act compliance and air quality nonconformity, metropolitan planning, and administration of the new surface transportation planning. These sanctions are of particular concern currently, and the real possibility of their enforcement in several states, especially those relating to the Clean Air Act, could essentially stop all transportation projects in regions or the whole area of those states.

Finally, there are also sanctions imposed by Congress in an effort to force states to adopt certain engineering materials and practices. A recent example is the requirement for use of recycled rubber in hot mix asphalt, which if not followed can result in a cut-off of significant amounts of Federal-aid highway funding.

The members of the Joint Committee have not as a group concentrated on the array of these mandates and sanctions, how their presence affects the administration of the Federal-aid programs by the states, and how the imposition of the sanctions could severely disrupt the nation's transportation system. As Congress has considered these mandates and sanctions, their advocates have prevailed in a general climate of limited or no debate on the need for and impacts of the mandates and sanctions. At the least, greater awareness by all the members of the Joint Committee of the extent, and the current and potential impacts of these Congressional enactments is needed.

List of Current Congressionally Enacted Sanctions
and Penalties That Can Be Imposed on States
Under the Federal-Aid Highway Program

(As provided by the Federal Highway Administration,
with Legislative and Statutory Provision Identification Added)

1. Vehicle Weight Limitations 23 U.S.C. 127
P.L. 93-643, 1975; P.L. 95-599, 1978
 - o States must permit a minimum and maximum of 20,000 pound single axle, 34,000 pound tandem axle, and 80,000 pound gross weight of combination (5-axle) vehicles to operate on the Interstate. Maximum weight cannot exceed allowable under bridge formula.

Penalty - Withholding of National Highway System (NHS) apportionments. If not restored during availability period, the apportionment lapses.
2. Enforcement of Vehicle Size and Weight 23 U.S.C. 141
P.L. 97-424, January 1983
Amended P.L. 102-240
 - o Each state must certify that it is enforcing all State laws respecting maximum vehicle size and weight.

Penalty - Withholding of 10 percent of the apportionments for Interstate Construction (IC), Interstate Maintenance (IM), NHS, Surface Transportation Program (STP), and Congestion Mitigation and Air Quality (CM&AQ). Apportionments are restored if enforcement is shown to be acceptable within 1 year; otherwise, reapportioned to other States.

3. Registration - Proof of Heavy Vehicle Use Tax Payment 23 U.S.C. 141
P.L. 97-424

- o States must require proof of payment of heavy vehicle use tax prior to registering heavy vehicles subject to the use tax.

Penalty - Withholding of up to 25 percent of the apportionments for IC and IM. The withheld apportionment is reapportioned to other States using 104(b)(5), i.e., IC and IM, formulas.

4. National Maximum Speed Limit 23 U.S.C. 141 and 154
P.L. 93-643, January 1975
P.L. 95-599, November, 1978

- o States must not have a maximum speed limit on any public highway in excess of 55 m.p.h. except a maximum of 65 m.p.h. is permitted on rural Interstates and some non-Interstate routes outside of urbanized areas of more than 50,000 population that are constructed to appropriate standards. The States must certify that they are enforcing all speed limits on public highways.

Penalty - Cessation of project approvals for Federal-aid highway projects if State has higher than allowed speed limit or for failure to certify that it is enforcing speed limits.

5. National Maximum Speed Limit Enforcement 23 U.S.C. 154
P.L. 102-240

- o Until December 1993, States must support their certification of maximum speed limits with data showing that the percentage of vehicles exceeding the speed limit on maximum speed limit highways is less than 50 percent. After December 1993, the State must support certification in accord with compliance criteria to be established by the Secretary.

Penalty - Until December 1993, withholding of up to 10 percent of the apportionments for NHS, STP, and CM&AQ for the following fiscal year. (Moratorium on sanctions for FY 1990 and FY 1991.) Future sanctions to be determined by Secretary through an enforcement rule that will provide for transfer of apportionments (except IC and IM) if State fails to enforce speed limits.

6. Control of Outdoor Advertising

23 U.S.C. 131
Revised P.L. 89-285, 1965
Amended P.L. 93-643, 1975
P.L. 102-240, 1991

- o States must provide for effective control of outdoor advertising signs along the Interstate System, the primary system as it existed on June 1, 1991, and any highway not on such system but on the NHS. Effective control has been expanded to include prohibiting the erection of new signs on designated scenic byways on the Interstate System and Federal-aid primary system.

Penalty - Withholding of 10 percent of the apportionments for IC, IM, NHS, STP, and CM&AQ. The withheld apportionment is reapportioned to other States. The Secretary may suspend application of the penalty if he finds that to be in the public interest.

7. Control of Junkyards

23 U.S.C. 136

- o States must provide for effective control of the establishment and maintenance of junkyards along the Interstate and primary systems.

Penalty - Withholding of 10 percent of the apportionments for IC, IM, NHS, STP, and CM&AQ. The withheld apportionment is reapportioned to other States. The Secretary may suspend application of the penalty if he finds that to be in the public interest.

8. Maintenance

23 U.S.C. 116

- o States must properly maintain or cause to be maintained any project constructed under the provision of the Federal-aid Highway Program.

Penalty - Cessation of project approvals for all types of projects in the State highway district, municipality, county, and other subdivisions of the State or the entire State.

9. Clean Air Act Compliance

1990 Clean Air Act Amendments
P.L. 101-549, Section 179

- o States are subject to State Implementation Plan (SIP) related sanctions. States must submit and implement all provisions of a complete, adequate SIP that provides for attainment of air quality standards in accordance with intermediate and final deadlines specified in the 1990 Clean Air Act Amendments.

Penalty - Cessation of project approvals within the nonattainment area; sanctions may be expanded to cover the entire State under certain circumstances at the discretion of the EPA Administrator. Penalty applies for failure to submit SIP; Environmental Protection Agency (EPA) disapproval of SIP; failure to implement; and failure to submit any provisions required by the Clean Air Act Amendments. Some projects are

exempt from sanctions (i.e., seven congressionally authorized activities that discourage single occupancy vehicles (SOV); safety projects whose principle purpose is to improve safety by significantly reducing or avoiding accidents; and projects which EPA finds will improve air quality and not encourage SOV).

10. Air Quality Nonconformity

1990 Clean Air Act Amendments
P.L. 101-549, Section 176

- o No transportation plan, program, or project may be approved, accepted, or funded unless it has been found to conform to an applicable SIP by the metropolitan planning organization and the DOT. This means a well-coordinated FHWA/FTA finding, based on technical analysis of transportation and emissions models.

Penalty - Lack of a conformity determination on an area's transportation plan or transportation improvement program will prevent the expenditure of FHWA and FTA funds on any activities, with the exception of certain exempt categories. Such a penalty would apply to the entire nonattainment area. Further, if the reason for nonconformity is not implementing transportation control measures, it could lead to the imposition of highway sanctions on a Statewide basis.

11. Interstate System Maintenance

23 U.S.C. 119
Reinstated P.L. 95-599, 1978
Amended P.L. 96-106, 1979

- o Each State must certify on each January 1 that it has a program to maintain the Interstate System in accordance with guidelines issued by the Secretary.

Penalty - Withholding of 10 percent of IC and IM apportionments for failure to certify or if Secretary finds State is not adequately maintaining System in accordance with the required program. Withheld funds can be restored if, within 1 year, State is found to be maintaining the Interstate System according to guidelines; otherwise, withheld funds are reapportioned to other eligible States.

12. National Minimum Drinking Age

23 U.S.C. 158 (as amended by
Section 4104 of P.L. 99-272)

- o States must have laws that prohibit the purchase or public possession of any alcoholic beverage by a person who is less than 21 years old.

Penalty - Withholding of 10 percent of the apportionments for IC, IM, NHS, and STP. Any funds withheld lapse except that withheld IC and IM funds lapse and are made available, to other States through the respective discretionary funds.

13. Commercial Drivers License

Commercial Motor Vehicle Safety Act
of 1986, P.L. 99-570, Section 12011

- o States must be in compliance with minimum Federal standards for licensing, reporting, and penalties.

Penalty - Withholding (of 5 percent for FY 1994 and 10 percent in the following fiscal years) of the apportionments for IC, IM, NHS and STP'. Funds withheld before September 30, 1995 are reserved for 4 years except that IC funds are reserved for 2 years. If, within this period, the State comes into compliance, and remains in compliance for one year, the funds may be restored. Otherwise the funds lapse, except that IC and IM funds which lapse are made available to other States through the respective discretionary funds. For funds withheld after September 30, 1995, there is no reserve period; that is, they lapse with results as stated above.

14. Drug Offenders

23 U.S.C. 159
P.L. 101-516, 1991, Section 333

- o States must have laws that require the revocation or suspension of driver's licenses for at least 6 months for those convicted of any violation of the Controlled Substances Act or any drug offense.

Penalty - Withholding (of 5 percent in FYs 1994-1995 and 10 percent in the following fiscal years) of the apportionments for IC, IM, NHS, and STP. Funds withheld before September 30, 1995 are reserved for 4 years, except that IC funds are reserved for 2 years and IM funds for 3 years. If, within this period, the State comes into compliance, the funds may be restored. Otherwise the funds lapse, except that IC and IM funds which lapse are made available to other States through the respective discretionary funds. For funds withheld after September 30, 1995, there is no reserve period; that is, they lapse with results as stated above.

15. Metropolitan Planning

23 U.S.C. 134
P.L. 102-240, 1991, Section 1024

- o Metropolitan Planning Organizations (MPOs) in Transportation Management Areas must be certified at least every 3 years by the Secretary of Transportation to be carrying out the required planning process.

Penalty - If an MPO is not certified after September 30, 1993, the Secretary may withhold all or part of the portion of the STP apportionment and formula apportionment of FTA Section 9 funds attributed to relevant metropolitan area. If an area is not certified for more than 2 consecutive years after September 30, 1994, 20 percent of attributable STP and Section 9 funds must be withheld. Funds are restored when the area is certified.

16. Use of Safety Belts and Motorcycle Helmets 23 U.S.C. 153
P.L. 102-240, 1991, Section 1031

- o States must have laws 1) that make it unlawful to operate a motorcycle if anyone on the motorcycle is not wearing a helmet, and 2) that make it unlawful to operate a passenger vehicle if any front seat occupant (other than a child secured in a child restraint system) is not properly wearing a seat belt.

Penalty - If a State does not have the laws in effect any time in FY 1994, the Secretary will transfer 1 1/2 percent of each of the FY 1995 apportionments for NHS, STP, and Congestion Mitigation and Air Quality to the Section 402 safety program. After FY 1994, the amount transferred will be 3 percent.

17. Management Systems 23 U.S.C. 303
P.L. 102-240, Section 1034

- o The State must develop, establish, and implement management systems for managing: highway pavement of Federal-aid highways, bridges on and off Federal-aid highways, highway safety, traffic congestion, public transportation facilities and equipment, and intermodal transportation facilities and systems.

Penalty - States must be implementing each management system beginning in FY 1995, and must annually certify, before January 1 of each fiscal year (the first certification is due by January 1, 1995) that the systems are being implemented, or the Secretary may withhold up to 10 percent of funds apportioned under Title 23, U.S.C., or under the Federal Transit Act for any fiscal year beginning after September 30, 1995.

18. Use of Recycled Paving Materials P.L. 102-240, Section 1038

- o Beginning on January 1, 1995, a State must certify to the Secretary that it has satisfied the minimum utilization requirement for asphalt pavement containing recycled rubber as a percentage of total tons of asphalt laid in the State and financed with Federal-aid under Title 23. The percentages are: 5 percent in 1994, 10 percent in 1995, 15 percent in 1996, and 20 percent for 1997 and the following years.

Penalty - The Secretary will withhold a percentage of the apportionments for Interstate Maintenance, NHS, STP and Congestion Mitigation and Air Quality equal to the percentage utilization requirement for that particular year. The Secretary may waive the penalty for any 3-year period upon evidence of health, environment and performance problems associated with asphalt pavements containing rubber. Individual State exceptions can be made if there is an insufficient supply of scrap tires.

19. Surface Transportation Program

23 U.S.C. 133
P.L. 102-240, Section 1007

- o State must comply with all provisions of law relating to the Surface Transportation Program.

Penalty - If a State fails to take corrective action within 60 days after being notified by the Secretary of non compliance, future STP apportionments will be withheld until corrective action has taken place.

Assumes technical corrections to the ISTEA so that penalty provisions will conform with the Federal-aid programs as defined in the ISTEA.



Official Business

Alaska State Legislature

HOUSE OF REPRESENTATIVES

State Capitol
Juneau, AK 99801-1182

MEMORANDUM

To: House Committees of Referral for HB 83

From: Allen Kingman, Aide to Rep. Scott Ogan *SO*

Re: Sectional Analysis of HB 83

Date: January 19, 1995

The following is a sectional analysis of HB 83, "An Act relating to state implementation of federal statutes." Please be advised that this analysis is not an authoritative interpretation of this bill, and is not intended to provide legal advice concerning the potential ramifications of the bill.

Section 1. FINDINGS AND INTENT:

The findings set forth in this bill are clear and self-explanatory; they reflect the widely held opinion that the federal government has grossly exceeded its authority to make and enforce policy in certain areas. Federal legislation typically authorizes the various executive agencies to promulgate regulations which are oppressive, unconstitutional, and which demonstrate little understanding of or concern for the unique conditions and problems faced by the citizens of the State of Alaska.

Section 2. ADDITION OF A NEW CHAPTER 40 TO TITLE 37:

§ 37.40.10 (a) requires that a commissioner or other agency head charged with implementing a federally mandated program shall annually review the cost-effectiveness of that mandate, as well as whether the mandate conflicts with state policy. The commissioner or agency head will then present his findings and recommendations to the governor, the Legislative Budget and Audit Committee, and the judiciary committees of each house.

§ 37.40.10 (b) requires a similar annual review of federal mandates by commissioners and agency heads, but with a focus on whether the federal mandate encroaches on an area of jurisdiction reserved to the states under the United States Constitution. Findings are reported to the governor and judiciary committees only.

§ 37.40.10 (c) requires that state agencies or departments responsible for developing state programs that implement federal mandates shall develop programs that are responsive to the fiscal limitations of the state and its municipalities, and that the agencies balance the cost of the program to the state with the program's intended benefit.

§ 37.40.020 (a) charges the committees receiving the above-described reports with making an independent determination as to the legality of the federal mandate, and with reviewing any alternative methods of compliance that might be more cost-effective.

§ 37.40.020 (b) requires the reviewing committees to submit recommendations to the governor regarding executive branch implementation of the federal mandate.



Official Business

Alaska State Legislature

HOUSE OF REPRESENTATIVES

State Capitol
Juneau, AK 99801-1182

SPONSOR STATEMENT

To: House Committees of Referral for HB 83

From: Representative Scott Ogan *SO*

Re: HB 83, "An Act relating to state implementation of federal statutes."

Date: January 19, 1995

I have introduced HB 83 as a companion bill to HJR 8, "A Resolution relating to mandates and other conditions imposed on the states by the federal government." Whereas the Resolution articulates the resolve of the citizens of this state to stand against further attempts by the federal government to encroach upon our autonomy and rights as a state under the Tenth Amendment to the United States Constitution, this bill provides a simple and practical modality for taking that stand.

HB 83 requires that any commissioner or agency head faced with implementing a federal mandate or condition must first carefully analyze the mandate for three specific difficulties before making any efforts at compliance. First, is the federal policy or legislation an unconstitutional abrogation of state power? Second, is it in conflict with state policy? And third, is the federal mandate a cost-effective method in this state of dealing with the problem it addresses? The agency head or commissioner will present his findings in the form of a written report to the Governor, the Legislative Budget and Audit Committee, and the House and Senate Judiciary Committees.

The two legislative committees receiving such reports shall review them, and are authorized to research the legality of the mandate. Their conclusions shall be presented to the governor, along with specific recommendations to the executive branch for compliance, modified compliance, or legal challenge.

This bill provides a mechanism to scrutinize efforts by the federal government to impose unsuitable policy on our state, and to assert our right to self-determination--a right purchased for us at high cost by our ancestors.